



DEPARTMENT OF THE NAVY

OFFICE OF THE SECRETARY  
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SECNAVINST 5815.3J  
NCPB  
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SECNAV INSTRUCTION 5815.3J

From: Secretary of the Navy  
To: All Ships and Stations

Subj: DEPARTMENT OF THE NAVY CLEMENCY AND PAROLE SYSTEMS

Ref: (a) 10 U.S.C. secs. 801-946 (UCMJ)  
(b) 10 U.S.C. sec. 952 (Parole)  
(c) 10 U.S.C. sec. 953 (Clemency)  
(d) 10 U.S.C. sec. 954 (Retention)  
(e) Manual for Courts-Martial (MCM)  
(f) *DODINST 1325.7 of 17 Jul 01* (Military Correctional Facilities)  
(g) *SECNAVINST 5420.135D of 27 Mar 92* (Naval Council of Personnel Boards)  
(h) *JAGINST 5800.7C of 3 Oct 90* (JAGMAN)  
(i) *SECNAVINST 1640.9B of 2 Dec 96* (CORRMAN)  
(j) *SECNAVINST 5300.28C of 24 Mar 99* (Substance Abuse)  
(k) 18 U.S.C. sec. 4201ff (Federal Parole)  
(l) 28 C.F.R. secs. 2.1-2.67 (U.S. Parole Commission Rules)  
(m) SEC DOT ltr dated 19 Jul 76 (NOTAL)  
(n) SECNAV ltr dated 21 Aug 76 (NOTAL)  
(o) *SECNAVINST 5800.11A of 16 Jun 95* (Victim and Witness Assistance Program)  
(p) Victims' Rights and Restitution Act of 1990 (Title 42, secs. 10601, 10601 note, 10606, 10606 note, and 10607)  
(q) *SECNAVINST 5214.2B of 6 Dec 88* (Reports Management Program)  
(r) *SECNAVINST 5211.5D of 17 Jul 92* (Privacy Act)  
(s) *SECNAVINST 5720.42F of 6 Jan 99* (Freedom of Information Act (FOIA))  
(t) *SECNAVINST 5212.5D of 22 Apr 98* (Records Retention)  
(u) *SECNAVINST 1752.3A of 11 Sep 95* (Family Advocacy Program)  
(v) *OPNAVINST 1752.1A of 30 May 00* (Sexual Assault Victim Intervention (SAVI) Program)

1. Purpose. To publish regulations consistent with references (a) through (v) for implementation of systems of clemency, parole, retention and enlistment of selected court-martialed offenders who were subject to the authority of the Secretary of the Navy at the time of their offenses. This instruction is a substantial revision and should be reviewed in its entirety.

2. Cancellation. SECNAVINST 5815.3H

3. Background. References (a) through (d) provide the statutory authority for the Secretary of the Navy to establish systems for the remission and suspension of unexecuted and executed portions of a court-martial sentence, the restoration to duty, retention and enlistment of selected offenders, and a system of parole for offenders confined in military correctional facilities (naval brigs) who were under the authority of the Secretary of the Navy (SECNAV) at the time of the commission of their offenses. References (a) and (e) provide the maximum authorized punishments for offenses committed under the Uniform Code of Military Justice (UCMJ). Reference (f) provides that the purpose of clemency and parole review is to ensure uniformity and equality in the administration of justice and to guarantee that the best interests of society, military and civilian, and the individual are served. Neither statute nor long-standing practice effectively relied upon by the Congress requires that all clemency and parole decisions be made by SECNAV. Reference (g) vests authority in the Naval Clemency and Parole Board (NC&PB), an administrative activity within the Department of the Navy assigned to the Assistant SECNAV for Manpower and Reserve Affairs (ASN(M&RA)), to review cases eligible for clemency and parole and to take final departmental level action or make recommendations in such matters in accordance with the provisions of this instruction. References (h), (k) and (l) provide guidelines for clemency and parole review by NC&PB, as applicable after taking into consideration the unique character of military service as set forth in the UCMJ and other published policy, rules and procedures of the Departments of Defense and Navy. This regulation also applies to members of the U.S. Coast Guard per references (m) and (n). Reference (o) is the primary directive on implementing reference (p).

#### 4. Authority

a. The naval clemency and parole systems shall consist of review and decision-making procedures that include naval and civilian personnel, including various officers in the chain of administrative and judicial review; the NC&PB; the Director, Naval Council of Personnel Boards (NCPB); and the ASN(M&RA).

b. The NC&PB shall review the cases of selected offenders to determine whether to grant or deny clemency.

c. The NC&PB shall review cases of offenders confined in military or, *when appropriate, Federal* confinement facilities, who are eligible for parole, to determine whether to grant or deny parole requests.

d. Clemency and parole actions taken under the policy, rules and procedures set forth herein are final.

e. Where this instruction conflicts with reference (g), this instruction controls.

5. Action. The NC&PB and the other elements within the clemency and parole systems shall carry out their responsibilities in accordance with this instruction.

6. Report and Forms

a. The report required by paragraph 302j is exempt from reports controlled by reference (q).

b. Forms required for clemency and parole review are listed in Appendix A.

7. Records. Contents of files created by the NC&PB shall be protected in accordance with reference (r). Written requests for disclosure of records within the possession or control of the NC&PB shall be processed in accordance with the Privacy Act (PA) (5 U.S.C. sec. 552a) and the Freedom of Information Act (FOIA) (5 U.S.C. sec. 552) as implemented within the Department of the Navy by references (r) and (s). First party (i.e., offenders') requests for disclosure of information will be processed under both the PA and the FOIA regardless of how the request is styled by the requester (offender). (See paragraph 320.) Information released to any law enforcement agent under the "routine use" provision of reference (r) will indicate that such information is for law enforcement purposes only and is not to be released outside such agency. The NC&PB records are retained in accordance with the provisions of reference (t).

8. Effective Date. The provisions of this instruction are effective upon the date of signature.

Hansford T. Johnson  
Secretary of the Navy  
Acting

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PART I

DEFINITIONS

101. Clemency. A general term for the Naval Clemency and Parole Board's (NC&PB) administrative review or action, other than the correction of legal error, which results in mitigation, remission, or suspension of the whole or any part of the unexecuted portion of a court-martial sentence, restoration to duty, the voluntary retention on active duty beyond the obligated term of enlistment, or reenlistment. *Clemency also includes substitution for good cause of an administrative discharge for an executed punitive discharge or dismissal in select cases.* The naval clemency system, as governed by this instruction, is independent of any clemency review conducted by the court-martial convening authority, the officer exercising general court-martial jurisdiction over the offender, or higher officials acting pursuant to their authority under Article 74(a), Uniform Code of Military Justice.
102. Clemency Review Eligibility Date. The date an offender is first eligible for clemency review by the NC&PB. The clemency review eligibility date is determined in accordance with the rules set forth in paragraph 403 of this instruction.
103. Commanding Officer. Generally, the officer in command of the military activity on whose rolls the offender is assigned at the time the offender's case is eligible for review by the NC&PB. In the case of personnel serving sentences to confinement in naval brigs, the commanding officer considered an element of the clemency and parole review systems is the officer directly in charge of the brig. For the purposes of this instruction, the term "commanding officer" includes commanding officers and officers in charge of naval brigs; the Commandant, U.S. Disciplinary Barracks, Fort Leavenworth, Kansas; and any other officer who commands a correctional/confinement facility under the control of the armed services.
104. Convening Authority. The officer acting under Articles 22 and 23, Uniform Code of Military Justice (UCMJ), Secretary Navy (SECNAV) (e.g., Judge Advocate General Manual (JAGMAN)) or empowered by the President, who refers charges to trial by court-martial and who ordinarily takes action on findings and sentence after trial under the authority granted by Article 60, UCMJ, or the JAGMAN.
105. Disposition Board. An agent of the NC&PB established by each commanding officer of a naval brig to review and forward to the NC&PB recommendations via the commanding officer concerning clemency and parole requests of all naval offenders assigned to the naval brig.
106. Director, Naval Council of Personnel Boards (NCPB). The Navy or Marine Corps officer overseeing and administering for SECNAV the clemency and parole systems under reference (g).

107. Federal Bureau of Prisons (FBOP). A Federal system of confinement facilities to which selected court-martialed offenders are transferred from naval brigs for completion of service of their sentences to confinement imposed as a result of conviction by courts-martial.

108. Mandatory Clemency Review. Unless waived in writing by the offender, the NC&PB must conduct a clemency review of all cases (except those involving the death penalty) involving offenders whose approved court-martial sentences include 12 months or more confinement.

109. Mitigation. Action taken to lessen the severity of the punishment in quantity or quality, or both, imposed by an approved court-martial sentence.

110. Naval Brig. A military correctional facility within the meaning of 10 U.S.C. section 951 used by the naval (Navy and Marine Corps) service for the confinement of offenders serving court-martial sentences. For purposes of this instruction, the U.S. Disciplinary Barracks, Fort Leavenworth, Kansas, (USDB), and any other correctional/confinement facility under the control of the armed services are included in the term naval brig.

111. Naval Clemency and Parole Board (NC&PB). A board composed of a *President (Navy/Marine Corps 05/06 or comparable senior civil servant) and four senior members (Navy/Marine Corps 05/06 or comparable senior civil servant)* and administratively constituted by SECNAV to take certain departmental-level actions in cases of offenders eligible for clemency and parole.

112. Offender. A member of the Marine Corps, Navy, or Coast Guard who has been convicted by special or general court-martial and has an approved sentence.

113. Officer Exercising General Court-Martial Jurisdiction (OEGCMJ). Any person authorized by Article 22a, UCMJ, SECNAV (e.g., JAGMAN) or empowered by the President to convene general courts-martial and to take supplementary actions required to finalize court-martial of the offender, *e.g.*, order the punitive separation executed because judicial review under Article 71(c), UCMJ, and clemency review under this instruction have been completed.

114. Parole. A conditional release from confinement in a naval brig for an eligible offender after service of at least one-third of the approved sentence to confinement, *but not less than 6 months*. Parole is granted for the purpose of assisting the selected offender, under the guidance and supervision of a *U.S. Probation Officer (USPO)*, to make a successful transition from the controlled living environment in confinement to a normal life in the civilian community.

115. Parole Eligibility Date. The date an offender serving the confinement portion of an approved sentence is eligible for parole.

116. Parole Management. *Officers and civilian personnel of naval brigs* under the supervision of the President, NC&PB, who administer the naval parole program for the NC&PB by acting as liaison with USPO's, and others necessary for the preparation, implementation and completion of parole programs for individually selected offenders paroled under the direction of the NC&PB.

117. Parole Review Hearing. A hearing conducted by the NC&PB to review parole requests, determine whether to grant or deny parole, set conditions of parole if parole is granted, and make parole recommendations to SECNAV in those cases not within the final decision-making authority of NC&PB.

118. Parole Violation Hearing. A hearing to determine whether the parolee has materially violated the conditions of release and, if so, whether parole should be revoked or reinstated.

119. Post-Trial Progress Report. All favorable or unfavorable information, evaluations, and recommendations contained in the file of an offender who has a sentence adjudged by court-martial and approved by the convening authority that documents the offender's attitude, conduct, and performance since being convicted and upon which a decision regarding clemency and parole may be based.

120. Preliminary Interview. A proceeding generally conducted by a USPO other than the offender's USPO to determine whether probable cause exists to believe that the offender has materially violated a condition of parole and to provide a basis upon which to recommend to NC&PB whether a parole revocation hearing should be ordered.

121. Prison Wardens. Federal officials having cognizance over naval offenders who are serving court-martial sentences in facilities administered by the FBOP.

122. Punitive Separation. A dismissal, dishonorable discharge or bad conduct discharge adjudged as a sentence by a court-martial and approved by a convening authority.

123. Remission. The diminution, abatement, or forgiveness, in whole or in part, of any part of the unexecuted or *executed* portion of an approved court-martial sentence.

124. Requested Clemency Review. A written statement or signed form (DD Form 2715-3), or equivalent, whereby an offender whose sentence includes an approved unsuspended punitive separation and less than 12 months confinement requests clemency from the NC&PB.

125. Restoration. Action by which the approved punitive separation of selected offenders who request restoration is remitted or suspended for a definite period of time so that they may demonstrate by conduct and performance during a period of active duty that they deserve to have the suspended punitive separation remitted.

126. Retention. A clemency action by which selected offenders, who are beyond the expiration of their normal service obligation, are offered the opportunity to serve voluntarily a period of active duty beyond the expiration of their active service obligation on probation with a view to honorable restoration to duty.

127. Supervised Release (As if on Parole). An offender who is released at the mandatory release date after service of court-martial sentence to confinement *and* who is placed on mandatory supervision (release as if on parole) *until full term date*.

128. Suspension. The temporary discontinuance, in whole or in part, of the service of the unexecuted portion of an approved court-martial sentence.

129. U.S. Parole Commission. An independent agency of the Department of Justice established under reference (k) with authority to promulgate rules and regulations establishing guidelines for making decisions to grant or deny parole to federal offenders. The guidelines issued by the commission, reference (l), serve as non-binding guidelines for the NC&PB.

130. U.S. Probation Officer (USPO). Federal official of the Probation Division, Administrative Office of the United States Courts, having immediate supervisory cognizance over an offender paroled or *placed on supervised release* from a naval brig or federal correctional facility.

131. Victim. A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term includes one of the following, in order of precedence: a spouse, legal guardian, parent, child, sibling, another family member, or another person designated by the court or the Secretary of the Military Service.

132. Waiver of Clemency Review (WCR). A statement or form (DD Form 2715-3), or equivalent, reflecting a voluntary, knowing and intelligent decision, signed by offenders and witnessed by a commissioned officer or the offender's lawyer (military or civilian) stating that, despite the fact that their approved sentence entitles them to have NC&PB conduct a mandatory clemency review of their case, they waive that review.

PART II

AUTHORITY

201. General Policy. This regulation implements the clemency and parole systems authorized by 10 U.S.C. sections 874 and 952-954. It must be read in a manner that is uniform and consistent with good order and discipline within the military as defined by the UCMJ (10 U.S.C. sec. 801-946), the Manual for Courts-Martial, other rules and procedures of the Departments of Defense and Navy and, where appropriate, enforced by corrections policy established by law and regulations implementing 10 U.S.C. sec. 951 (Military Correctional Facilities).

202. Statutory Authority. Title 10 U.S. Code sections 874 and 951-954.

a. 10 U.S.C. sec. 874 states in pertinent part:

*The Secretary concerned and, when designated by him, any Under Secretary, Assistant Secretary, Judge Advocate General, or commanding officer may remit or suspend any part or amount of the unexecuted part of any sentence, including all uncollected forfeitures other than a sentence approved by the President.*

*The Secretary concerned may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.*

b. 10 U.S.C. sec. 951 states in pertinent part:

(1) The Secretary concerned shall:

(a) provide for the education, training, rehabilitation, and welfare of offenders confined in a military correction facility of his department; and

(b) provide for the organization and equipping of offenders selected for training with a view to their honorable restoration to duty or possible reenlistment.

(2) Under regulations prescribed by the Secretary concerned, the officer in command shall have custody and control of offenders confined within the facility which he commands, and shall usefully employ those offenders as he considers best for their health and reformation, with a view to their restoration to duty, enlistment for future service, or return to civilian life as useful citizens.

c. 10 U.S.C. sec. 952 states:

The Secretary concerned may provide a system of parole for offenders who are confined in military correctional facilities and who were at the time of commission of their offenses subject to the authority of that Secretary.

d. 10 U.S.C. sec. 953 states:

For offenders who were at the time of commission of their offenses subject to his authority and who merit such action, the Secretary concerned shall establish--

(1) a system for the remission or suspension of the unexecuted part of the sentences of selected offenders;

(2) a system for restoration to duty of such offenders who have had the unexecuted part of their sentences remitted or suspended and who have not been discharged;

(3) a system for the enlistment of such offenders who have had the unexecuted part of their sentences remitted and who have been discharged.

e. 10 U.S.C. sec. 954 states:

The Secretary concerned may provide for persons who were subject to this authority at the time of commission of their offenses a system for retention of selected offenders beyond expiration of normal service obligation in order to voluntarily serve a period of probation with a view to honorable restoration to duty.

203. Regulatory Authority. This instruction must also be read in a manner that promotes uniformity and consistency of application of military justice as set forth in the Manual for Courts-Martial (MCM), the JAGMAN as well as the corrections policy set forth in references (f) and (i).

a. The general principles governing confinement of military personnel within the Department of Defense are, in pertinent part:

(1) Discipline should be administered on a corrective rather than a punitive basis, and military correction facilities should be administered on a uniform basis. It is desirable for persons under sentence of courts-martial or other military tribunals to be accorded uniform treatment, in furtherance of equality within the Department of Defense and in justice to individuals concerned.

(2) The Secretaries of the Military Departments shall provide programs for education, training, rehabilitation, and the welfare of military offenders consistent with this Directive.

b. The general policy governing confinement in the Department of the Navy is as follows:

[The] treatment of persons in naval confinement [will] be uniform and in full accord with the provisions of the UCMJ. The major purpose of all confinement *is deterrence, punishment, and rehabilitation.*

It is also the policy of SECNAV that confined naval personnel retain all of the rights and responsibilities of other service personnel in a duty status except those which are expressly, or by implication, taken away under the provisions of the UCMJ and such regulations as may be promulgated by competent authority.

c. The Department of the Navy's correctional philosophy is set forth in reference (i) and includes a recognition of the fact that punishment alone is seldom corrective. Confinement is punishment because it denies members their liberty and separates them from their families, friends, and most normal activities. It means loss of status and disapproval of the individual offender by society. Confinement sharply limits the offenders, privileges, freedom of action, and opportunities for personal/professional growth.

204. Other Statutes and Regulations. The NC&PB is guided by statutory and regulatory requirements during the clemency and parole review process. The NC&PB will keep itself informed of any programs that have as their purpose the protection of the individual and society from a recurrence of conduct that is either criminal or has a high probability of resulting in criminal conduct, and programs that have as their purpose the implementation of the rights of crime victims and services to crime victims. (See references (p), (u) and (v).) These programs may be required by statute or independently implemented within the Department of Defense and Department of the Navy by instruction or regulation. Upon becoming aware of a statutory or regulatory requirement that has as its purpose providing a service member with the opportunity for treatment and rehabilitation of the underlying problem that has or may have caused or contributed to criminal conduct, the NC&PB will recommend to SECNAV in writing, via the Director, NCPB, that it intends to abide by such statutory or regulatory requirement and will implement such recommendation within 30 days unless directed otherwise. Without further direction and at the expiration of 30 days, the NC&PB will review each offender's case in light of the statutory or regulatory requirement to determine eligibility. If an offender is determined eligible, the NC&PB shall direct that the offender be afforded the opportunity to participate in the program.

205. Delegation of Authority. Except in cases involving the death penalty, life without parole and national security; the Assistant SECNAV for Manpower and Reserve Affairs ASN(M&RA) is delegated the authority to act for SECNAV in matters of clemency and parole. (See SECNAVINST 5430.7M (NOTAL).)



PART III

THE NAVAL CLEMENCY AND PAROLE SYSTEMS

301. Director, NCPB. The Navy or Marine Corps officer appointed by SECNAV (ASN(M&RA)) to provide direct administrative and supervisory oversight of the NC&PB.

302. Functions of the Director

a. Exercise primary cognizance over matters relating to the clemency and parole systems within the Department of the Navy.

b. Administer and supervise the activities of the NC&PB by monitoring the performance of the clemency and parole review systems to ensure compliance with the provisions of this instruction and to avoid delays in the processing and reviewing of individual cases.

c. Convene the NC&PB; appoint the President; and establish membership as prescribed in this instruction.

d. Provide administrative and clerical support for the NC&PB.

e. Inform SECNAV of matters of interest.

f. Recommend clemency and parole policy and procedures to SECNAV.

g. Propose changes to this instruction to SECNAV.

h. Make recommendations on cases forwarded to SECNAV by NC&PB.

i. Selectively screen clemency and parole cases reviewed by NC&PB for concurrence with NC&PB determinations and forward with recommendations those cases that require final action by SECNAV.

j. Submit to SECNAV a semiannual report covering the operations of the NC&PB (see reference (g)) and to the Secretary of Defense an annual report *containing* restoration, clemency and parole statistics (See reference (f).)

k. Ensure that a system of records, as specified in this instruction, is maintained and that records required for the administration of military and civilian personnel assigned to the NC&PB are *complete*.

l. Protect the contents of records relating to the processing and reviewing of clemency and parole cases in accordance with references (r) and (s).

m. Ensure that the NC&PB functions are administered in accordance with the appropriate SECNAV instructions dealing with privacy and access to information.

n. Coordinate with the Commandant of the Marine Corps (CMC), the Commander Naval Personnel (BUPERS), the Chief, Bureau of Medicine and Surgery (BUMED) and the Judge Advocate General (JAG) as well as appropriate civilian agencies (e.g., the FBOP, U.S. Parole Commission, and other Federal, State and local authorities) in matters associated with clemency and parole of naval service offenders.

o. Maintain appropriate liaison with clemency and parole review authorities in the naval service, other services and civilian officials associated with the naval clemency and parole systems.

p. Take final action on cases involving the appeal of parole denials, except in those cases *listed in Section 308 requiring SECNAV decision, or in any case where SECNAV made the initial denial decision.*

q. As the official responsible for complying with the provisions of reference (s) during parole and clemency procedures, ensure compliance with victims' rights and service statutes and instructions. (See references (p), (u), and (v).)

r. Take all other actions necessary for the effective and efficient accomplishment of the NC&PB mission.

303. NC&PB. A component of the NCPB created under references (b) through (d) to review, recommend, and decide clemency and parole issues in cases of offenders who fall within its jurisdiction as defined by this instruction. (See paragraphs 304, 305, and 501.)

304. Cases Within the Jurisdiction of NC&PB

a. The NC&PB has jurisdiction over all special and general court-martial cases in which Navy and Marine Corps offenders and other persons subject to the UCMJ who are tried by Navy and Marine Corps courts-martial are eligible for mandatory clemency review, are eligible for and have requested clemency review, or are eligible for and have requested parole. (See paragraphs 401 and 501.)

b. NC&PB also have jurisdiction over supervised releasees from their minimum release date until the expiration of their full term date.

c. NC&PB has jurisdiction in select cases to recommend substitution for good cause of an administrative discharge for an executed punitive discharge or dismissal. Specifically, NC&PB's jurisdiction is limited to considering those cases where the service member is retirement eligible (*i.e.*, 20 years or more of creditable service) and where the service member files a clemency request with the NC&PB within 5 years of the date of the executed punitive discharge or dismissal. SECNAV or designee will exercise final decisional authority.

d. *In cases of a offender serving an approved unsuspended sentence of confinement for life without parole that is adjudged for an offense committed on or after 30 October 2000, SECNAV will exercise this authority personally and only after the service of a period of confinement of not less than 20 years.*

e. U.S. Coast Guard Cases. When requested by the Commandant of the Coast Guard, NC&PB may:

(1) Provide advisory opinions to the U.S. Coast Guard regarding the appropriateness of clemency as it pertains to U.S. Coast Guard offenders serving sentences of confinement as a result of courts-martial. Clemency decisions regarding U.S. Coast Guard offenders are the responsibility of the Commandant of the U.S. Coast Guard.

(2) Make decisions or recommendations for granting or denying parole in initial and subsequent reviews and on appeal, as well as suspend or revoke parole, of U.S. Coast Guard offenders on the same basis and under the same conditions as are applicable to naval offenders.

f. Convening authorities are required to assist the NC&PB in the exercise of its jurisdiction by promptly providing it with a copy of the record of trial, a copy of the court-martial order, and appropriate post-trial progress reports. (See paragraphs 409, 410 and 509, supra; JAGMAN 0153b(2).)

### 305. Cases Not Within the Jurisdiction of the NC&PB

a. Cases in which no approved unexecuted portion of a sentence (*other than in select cases of an executed punitive discharge or dismissal*) remains to be suspended or remitted.

b. Cases in which the approved sentence does not include either a punitive separation or confinement for twelve months or more.

c. Cases in which approved suspended punitive separations are to be executed as a result of vacation proceedings held under the Manual for Courts-Martial.

d. Cases in which offenders have an approved death sentence, *unless the sentence has been officially commuted by the President to a lesser punishment.*

e. Offenders who are unauthorized absentees/deserters or are in the custody of Federal, State, local or foreign authorities serving sentence of those authorities at the time they are eligible for mandatory clemency review. They become eligible for mandatory clemency review upon their return to naval custody for completion of their approved court-martial sentence.

f. Offenders whose convening authority action or sentence has been set aside by the U.S. Navy-Marine Corps Court of *Criminal Appeals*, the U.S. Court of Appeals for the Armed Forces, or other appropriate courts of law.

306. Mission of the NC&PB. The NC&PB will act for or provide recommendations or advice to SECNAV in the issuance of decisions regarding clemency or parole matters, specifically:

a. Mitigation or substitution, remission or suspension of any part or amount of the unexecuted portion of a selected offender's sentence, other than a sentence approved by the President of the United States.

b. Remission or substitution of a selected offender's *dismissal* or punitive separation and *either (1) restoration to duty or (2) separation with an administrative discharge under either honorable conditions or under other than honorable conditions (OTH).*

c. Suspension of a selected offender's *dismissal* or punitive separation and restoration of that offender to active duty for a specified period of probation, including the retention of a selected offender beyond the expiration of normal service obligation in order to serve voluntarily a specified period of probation.

d. Reenlistment of offenders who have satisfactorily demonstrated potential for continued military service.

e. Parole of offenders confined in naval brigs serving the confinement portion of an approved sentence of a court-martial who were under the authority of SECNAV at the time of the commission of their offenses.

f. *Supervised Release (As If On Parole) of offenders from minimum release date until expiration of their full term date.*

g. Issuance of advisory opinions on any naval service case in which the offender has been transferred to the FBOP and thus under the parole authority of the U.S. Parole Commission. Advisory opinions will be issued upon request of the U.S. Parole Commission and, as determined by the NC&PB, in those naval service cases in which the NC&PB finds aggravating circumstances or unique military factors present that describe or distinguish the naval service offender's case from the "typical" case for which the U.S. Parole Commission guidelines were set. A copy of the advisory opinion will be provided to the offender.

h. Provide information on offender conviction/release from confinement to Federal, State or local authorities as required by law or regulation.

i. Ensure compliance with the notification requirements for victims as contained in reference (p) during all clemency and parole procedures.

307. Composition. The NC&PB is composed of five members, all of them career *civil service* or naval officers selected on the basis of wide military experience, proven performance and education. *A majority of the nominees will normally be senior or equal in rank to the individual requesting clemency and/or parole.*

a. Nomination. Each of the following will nominate at least two officers as designated below, one as a member of the NC&PB and one or more as alternate members:

(1) CMC: Marine Corps Officers.

(2) BUPERS: Navy line officers.

(3) BUMED: Navy psychiatrists or clinical psychologists.

(4) JAG: Officers of the Judge Advocate General's Corps or Marine Corps Judge Advocates assigned to the Office of the Judge Advocate General (including Naval Civil Law Support Activity).

(5) Director, NCPB: Senior military officers or senior career *civil service* officers (GS-14 to GS-15).

b. Grade of Nominees. Nominated military officers will normally be of the grade of 05 or 06, with preference given to the latter. Exceptions to these grade requirements may be authorized by the Director, NCPB.

c. Designation of President. The Director, NCPB, will designate appropriate nominees as members and one of those designated members as President of the NC&PB and one as alternate President. The remaining nominated officers or *civil servants* will be designated members or alternate members of the NC&PB, as appropriate.

d. Oath/Affirmation. Prior to undertaking duties as a member or recorder of NC&PB, all individuals assigned to such duties will execute the following oath or affirmation, which continues in effect throughout their service with the NC&PB.

I, \_\_\_\_\_, do swear or affirm that I will faithfully and impartially perform all the duties incumbent upon me as a member of the Naval Clemency and Parole Board; that I will fully and objectively inquire into and examine all cases coming before me; that I will, without regard to the status of the individual in any case, render my individual judgment according to the facts, my conscience, and the law and regulations applicable to the Naval Clemency and Parole Board.

The Legal Advisor to the Director, NCPB, or other judge advocate, will administer the oath to the members.

308. Functions of the NC&PB

a. Clemency. *Clemency is not a right, but a discretionary decision of the NC&PB or SECNAV.* The NC&PB will:

(1) Meet with such frequency as to dispose expeditiously of clemency matters referred to it for action.

(2) Conduct clemency review of cases of selected naval service offenders in accordance with the policy and procedures set forth in this instruction.

(3) *Designate as an agent of the NC&PB an appropriate naval brig panel to conduct a hearing in the case of each offender requesting clemency.*

(4) Obtain, in appropriate cases, documentation from the Naval Criminal Investigative Service (NCIS) and the Federal Bureau of Investigation (FBI) relating any prior criminal history, including information concerning outstanding arrest warrants for the offender whose case is eligible for clemency review.

(5) Grant or deny clemency in consonance with law and regulations of higher authority except for those cases in which SECNAV has retained the authority to take final action.

(6) Submit to SECNAV, with recommendations for final action, cases in the following categories:

(a) Cases in which SECNAV or a designee has indicated in writing an official interest.

(b) Cases in which the offender is a naval officer or midshipman.

(c) Cases involving classified information as defined in reference (h).

(d) *Any individual whose clemency may be the subject of controversy or substantial congressional or press interest as determined by SECNAV or a designee, to include the Director, NCPB.*

(e) Cases in which the NC&PB recommends clemency for any offender whose approved unsuspended, sentence to confinement is in excess of 10 years (to include, inter alia, sentences of death, life without parole and life).

(f) Cases in which the offender has been convicted of any offense in which the victim is under the age of 16 years old or is the offender's spouse.

(g) Cases referred to SECNAV by the Director, NCPB, under the oversight authority set forth in this instruction.

(h) Cases referred to SECNAV for final action by any member of the NC&PB.

*(i) Cases in which NC&PB recommends substitution of an administrative discharge for an executed punitive discharge/dismissal.*

(7) Ensure compliance with crime victims' right to information about the conviction, sentencing, imprisonment, and release of offenders, as mandated by reference (p), throughout the clemency process.

b. Parole. Parole is not a right, but a discretionary decision of the NC&PB or SECNAV. The NC&PB will:

(1) Meet with such frequency as to dispose expeditiously of parole matters referred to it for action.

*(2) Conduct parole review of cases of selected naval service offenders in accordance with the policy and procedures set forth in this instruction.*

(3) Designate as an agent of the NC&PB an appropriate naval brig panel to conduct a *disposition board hearing* in the case of each offender requesting parole.

(4) Review requests and recommendations for parole of naval service and U.S. Coast Guard offenders.

(5) Obtain, in appropriate cases, documentation from NCIS and the FBI concerning any prior criminal history, including information relating to outstanding arrest warrants for the offender who is requesting parole.

(6) Grant or deny parole in consonance with law and regulations of higher authority, except in those cases in which SECNAV has retained authority to take final action.

(7) Submit recommendations for final action in the following cases in which final decisional authority has been retained by SECNAV:

(a) Cases in which SECNAV or a designee has indicated in writing an official interest.

(b) Cases in which the offender is a naval officer or midshipman.

(c) Cases involving classified information as defined in reference (h).

(d) Any individual whose parole may be the subject of controversy or substantial congressional or press interest as determined by SECNAV or a designee, to include the Director, NCPB.

*(e) Cases in which the NC&PB recommends parole for any offender whose approved, unsuspended sentence to confinement is in excess of 10 years (to include, inter alia, sentences of death, life without parole and life).*

(f) Cases in which the offender has been convicted of any offense in which the victim is under the age of 16 years old or is the offender's spouse.

(g) Cases referred to SECNAV by the Director, NCPB, under the oversight authority set forth in this instruction.

(h) Cases referred to SECNAV by any member of the NC&PB.

(8) When appropriate, delay the effective date of parole or rescind the grant of parole prior to an offender's release on parole.

(9) Review recommendations for suspension of parole, preliminary interviews, parole violation hearings and revocation of parole.

(10) When appropriate, suspend parole and, if necessary, direct the parolee's apprehension and return to custody.

(11) If parole is suspended and the parolee is being held on charges by Federal, State or local authorities, request the issuance of a detainer on the parolee for return to military authority, except that such request may be held in abeyance pending disposition of the charges.

(12) Order preliminary interviews, parole violation hearings, and parole review hearings.

(13) Designate an appropriate individual or body to act as an agent of the NC&PB to conduct a parole violation hearing when necessary.

(14) Revoke or reinstate parole; or, revoke parole but defer executing the revocation; cancel the deferment or rescind the revocation, if appropriate.

(15) Order, if appropriate, restoration of good conduct time or extra good time earned prior to release on parole if parole is revoked.



(16) Set and modify, prior or subsequent to release on parole, conditions of parole, including requirements for community service, individual or community-based counseling or therapy in substance abuse/dependency, sex-offender/violent offender counseling, therapy and treatment or any other requirement considered necessary to assist the parolee to remain at liberty and live in the community without violating the law.

(17) Issue departmental-level parole decisions in a timely manner.

(18) Ensure compliance with crime victims' rights to information about the conviction, sentencing, imprisonment, and release of offenders, as mandated by reference (p), throughout the parole process.

c. Other Functions. The NC&PB may perform other functions as directed by higher authority. As part of those other functions, the NC&PB may:

(1) Make recommendations for the advancement of an offender's clemency or parole eligibility date in exceptional cases.

(2) Make recommendations to the Secretary, other authorities, or to the offender with regard to concerns the NC&PB has after review of the offender's case that do not fall within the jurisdiction of the NC&PB, but may fall within the statutory or regulatory jurisdiction of other authorities, e.g., Secretarial designation for medical care, Naval Discharge Review Board/Board for Correction of Naval Records action.

(3) Evaluate each case eligible for its review under this instruction and determine whether a violation of the law other than the offense(s) for which the offender has already been convicted has occurred. If, in the opinion of the NC&PB, a violation or potential violation is indicated, refer relevant information to appropriate law enforcement authorities in the locality to which the offender will return upon his or her release from confinement or separation from the naval service. Disclosure of this information must be consistent with Federal law and regulation and should be accomplished when the offender is released from confinement or upon separation from the naval service, whichever occurs sooner.

(4) Provide relevant information to the Immigration and Naturalization Service of the Department of Justice concerning non-U.S. citizen service members whom it determines fall within the criteria of 8 U.S.C. sec. 1251, such as a general court-martial conviction for an offense involving moral turpitude, serious violence, or drug distribution.

(5) Issue warnings to law enforcement authorities of the release of offenders convicted of crimes listed as reportable offenses by the FBI (Appendix B). Warnings will include the offense of which the offender was convicted, the sentence as finalized through judicial and clemency review at the date of release, and the full term release date.

(6) Evaluate each case for substance abuse/dependency (reference (j)). An identification of dependency may be based on a medical diagnosis recorded in the record, a medical diagnosis by the psychiatrist or clinical psychologist, or by a determination of the majority of the NC&PB members. Upon making a determination that an offender is alcohol or drug dependent, ensure that the offender is provided the opportunity to receive inpatient treatment through the Department of Veterans Affairs (VA), if available, prior to discharge under reference (j).

(7) When requested, or when otherwise appropriate, provide recommendations for parole to Federal paroling authorities with custody and parole jurisdiction over offenders of the naval service serving sentences of courts-martial in federal confinement facilities.

(8) Keep itself informed of events, developments and trends in corrections and military justice and keep current in military and civilian corrections issues (including victims' rights and services) and parole programs, legislation and activities of professional correctional and parole organizations. The NC&PB and/or its representatives are encouraged to join and attend meetings of military, Federal and national organizations active in the corrections and parole field. The NC&PB and/or its representatives will visit naval brigs on a regular basis to ensure that policies and procedures contained here are complied with and understood. Such visits will normally be coordinated with appropriate authorities.

309. Objectives. The objectives of the NC&PB are:

- a. The preservation of good order and discipline.
- b. Equality in the administration of justice, including elimination of severe sentence disparity by the remission, mitigation, or suspension of the disparate portion of the sentence.
- c. Protection of the best interests of the naval service, the individual offender, the victim and society.

310. Evaluative Criteria. The appropriateness of clemency or parole in an offender's case will normally be evaluated, at a minimum, in light of the NC&PB, objectives and on the basis of the following criteria:

a. Nature and circumstances of the offenses as determined from the record of trial and allied papers, the court-martial order, and relevant investigative reports, if available. In the clemency and parole review of an offender's case that involves classified information, as defined by reference (h), the convening authority shall prepare and forward to NC&PB unclassified portions of the record of trial together with an unclassified summary of the classified portions of the record of trial. These unclassified records may, at the discretion of the President, NC&PB, be substituted for the full classified record of trial.

b. Military and civilian background of the offender, including age, education, training, experience, marital status, et al.

c. Post-trial progress report, to include an evaluation of the offender's post-trial attitude, conduct and performance; the offender's adaptation to confinement; the offender's sincerity and motivation, including the offender's program plan while serving confinement and progress in meeting that plan. The offender's post-trial denial of guilt of any or all offenses of which the offender was convicted and sentenced contrary to pleas of not guilty is not to be considered an adverse factor by the NC&PB. On the other hand, pleas of guilty at trial may be considered a sign of remorse and rehabilitation by the NC&PB. Also relevant is whether the offender has recognized the wrongfulness of his or her confining offense, shown genuine remorse, achieved a sense of purpose, demonstrated a desire for self-improvement, or exhibited self-discipline.

d. Recommendations of the military judge and the staff judge advocate or legal officer; comments of officials in the post-trial progress report; comments of the officer exercising general court-martial jurisdiction, and, if available, the commanding officer at the time of trial.

e. A psychiatric/psychological evaluation of the offender, if required; relevant social factors; and, when appropriate, a substance abuse/dependency evaluation or any other identified specialized treatment need.

f. Any statement by any victim (including a governmental agency) concerning the offense for which the offender was convicted, including the family of a homicide victim, concerning the financial, social, psychological and emotional harm done to or loss suffered by such victim. (See references (p), (u) and (v).)

g. Restitution made to victims by the offender.

h. Comparison of offender's offense(s) and sentence with the offense(s) and sentences of co-accused and/or the sentences of other offenders whose convictions and sentences were under similar circumstances.

- i. Recommendations of disposition boards and commanding officers.
- j. Clemency previously granted by other authorities, including the presumption of earned good conduct time that establishes an offender's minimum release date under the provisions of SECNAVINST 1640.9B, reference (i).
- k. Uniform non-binding guidelines such as those contained in Title 28 Code of Federal Regulations (CFR) adapted to reflect the unique character and requirements of naval service (Appendix C).
- l. The offender's race, color, religion, ethnicity, national origin, and gender are not evaluative factors used in determining clemency or parole matters. Photographs of offenders will neither be maintained nor utilized by NC&PB.
- m. Exceptions. The NC&PB is authorized to make exceptions to the procedures for clemency and parole review set forth in this instruction upon a determination that the exception is not contrary to law or regulation, prejudicial to the naval service or the offender concerned, in order to:
  - (1) Correct an administrative error that practicably is not otherwise correctable.
  - (2) Allow for special circumstances such as, but not limited to: (a) the refusal of an offender to cooperate in the preparation of a post-trial progress report; or (b) the unavailability of a post-trial progress report and the offender's clemency review is overdue as a result of administrative oversight or error; or (c) the offender is unavailable because of unauthorized absence or other reasons at the time the post-trial progress report was prepared.
- n. The absence of any of the information set forth in subparagraphs b through i above does not invalidate the clemency or parole review process.
- o. *There is no constitutional, statutory or regulatory right or entitlement for an individual to be granted clemency or to be released on parole. The foregoing criteria will not be construed as creating any expectation of clemency or parole for any individual.*

311. Hearings

- a. The NC&PB may entertain personal appearances, caseload permitting. The offender may have a personal representative appear on his/her behalf at the NC&PB hearing at no cost to the government. Unless the offender has been released from confinement on parole or upon completion of service of confinement, the offender may not make a personal appearance before the NC&PB. The NC&PB notifies the offender (via the commanding officer of the brig or other

designee) of the date of the hearing, but will, at all times, attempt to accommodate the schedules of personal representatives when necessary. The offender is ultimately responsible for keeping personal representatives informed about the NC&PB hearing date. Although the NC&PB will assist in that regard should the personal representative contact the NC&PB, the NC&PB is not required to provide direct notification of the hearing date to the offender's personal representative. *The offender will be provided (by the commanding officer or other designee) the opportunity to sign/forward a Privacy Act Waiver as part of the personal appearance request.*

b. Victim/Witness Appearances. *The NC&PB may entertain personal appearances, caseload permitting. Victims and/or witnesses may appear before the board in person or, technology permitting, electronically or have a personal representative appear on their behalf at no cost to the government. The confining institution has primary responsibility for victim/witness notification. Upon notification of expressed interest by the victim and/or witness, the confining institution will inform the NC&PB. The NC&PB will then coordinate with both the confining institution and the victim and/or witness regarding the case review date and time.*

c. Victim/Witness Options. *Victim, victim's family members, the victim's representatives or witnesses may submit matters in writing, by audio tape, video tape or a combination of any or all of these methods for consideration by the NC&PB. In order to facilitate appropriate consideration of written material, it is recommended that documents be provided to the NC&PB staff at least 4 weeks prior to the Board meeting.*

d. *NC&PB will conduct hearings that are generally open to the public unless the offender objects, unless the case involves classified material the revelation of which during the hearing may require the hearing to be closed, or for other good cause. At no time, however, are visitors or personal representatives permitted to be present during the deliberations of the NC&PB. Additionally, the presence of individuals during the NC&PB proceedings will be permitted unless the NC&PB, by majority vote, determines that the presence of such persons interferes with the orderly course of the proceedings.*

e. *NC&PB hearings will be conducted in a non-adversarial and impartial manner. The adjudicatory function of panel members is paramount. Members should avoid conduct, which is or could be construed to be investigatory or prosecutorial. The hearings shall be conducted with dignity and decorum and with the objective of fairly addressing all the facts bearing on a case.*

f. *Members shall avoid conflicts of interest by recusing themselves from pending clemency/parole matters in which they were either indirectly or directly involved in a personal/professional capacity. If in doubt as to whether the appearance or reality of an ethical conflict of interest exists in a specific case, the member must seek an advisory opinion from Director, NCPB Legal Counsel.*

312. Decisions and Recommendations

a. The NC&PB will make decisions and recommendations with regard to clemency and parole on the basis of the record of trial, the court-martial order, the post-trial progress reports, matters presented during personal appearances, and other documents presented to the NC&PB for consideration by the offender, the offender's chain of command/administration, and others who communicate with the NC&PB concerning the offender, including victims and preparers of victim(s) impact statement(s), and, in cases involving national security, *unclassified summaries*.

b. The decisions and recommendations of the NC&PB will be based upon the requests and recommendations contained within the information presented to the NC&PB and will include, at a minimum, consideration of the objectives, evaluative criteria and other policy contained within this instruction.

c. The NC&PB will *not develop* conclusions as to guilt or innocence of the offender, and will accept the findings of offender's court-martial as approved or affirmed at the time the offender's case is before it for review.

d. Decisions and recommendations of the NC&PB will be reached through a simple majority of the voting members. Five members will constitute a quorum. In the event of a tie vote, as the result of an abstention, the NC&PB will refer the case to SECNAV with a recommendation from the Director, NCPB. In the event that a member is unable to attend the scheduled hearing, the member will arrange for his/her alternate to attend or the Director, NCPB, will designate an alternate member to sit.

313. Endorsements. Clemency and parole cases forwarded to SECNAV under the provisions of this instruction will be submitted with pertinent portions of the case file and NC&PB's written recommendations and supporting reasons via the Director, NCPB, for endorsement. If the NC&PB is not unanimous in its recommendations, the recommendations and reasons will be set forth for each divergent view. The Director will either concur or not concur, providing reasons for non-concurrence.

314. Action

a. Clemency and parole decisions will be documented in writing and normally distributed by means of the U.S. Postal Service to cognizant commands, activities and offices, including prison wardens, where appropriate. The cognizant command or authority having the most direct contact with the offender will ensure that the offender is promptly provided a copy of the action of NC&PB or SECNAV.

NC&PB will ensure known victims are kept informed, as required by reference (p). *Electronic notification is authorized and will be used to the maximum extent possible.*

b. Documents issuing decisions of the NC&PB granting or denying clemency or parole and decisions of SECNAV granting or denying clemency or parole will bear the signature of the President, NC&PB, or, upon designation, the Executive Secretary, NC&PB. Decisions of the Director, NCPB, granting or denying parole appeals will bear the signature of the Director, NCPB.

c. Clemency and parole decisions will be executed promptly by cognizant Navy and Marine Corps commands. The authority to execute dismissals, dishonorable discharges, bad conduct discharges or other discharges subsequent to completion of NC&PB clemency review, however, will not be exercised until completion of judicial review of an offender's case under Article 71(a), UCMJ.

315. NC&PB Deliberations. NC&PB deliberations are closed with only the members and staff as required in attendance. Although the final vote of the NC&PB in an offender's case may be disclosed, the deliberations and votes of the individual members of the NC&PB are confidential and will not be released unless directed by SECNAV or the Director, NCPB, upon a showing of good cause which includes, but is not limited to, evidence of bias/prejudice or lack of impartiality.

316. Additional Procedures. Any additional procedures the NC&PB requires to carry out its responsibilities, as set forth in this instruction will be prescribed by the NC&PB.

317. Time-Limitations. Any time limitations contained in this instruction are for administrative and procedural efficiency purposes and are not intended to create any substantive legal rights under the UCMJ or any other provision of law.

a. Clemency/Parole Timeline. Appendix D provides a visual depiction of the Clemency/Parole Timeline. Nothing in Appendix D, however, should be construed as mandating actions or decisions not required within the main text of this instruction.

318. Medical Care. Offenders whose sentences include a punitive separation and who are pending completion of appellate review and are either on parole or on appellate leave are still members of the naval service. Accordingly, they are authorized medical care to the same extent as other naval service members. An offender on parole whose administrative or punitive separation has been executed is not eligible for military medical care. Offenders who are retired are entitled to medical care as any other military retiree. If the circumstances are exceptional, offenders who are not otherwise authorized care may request secretarial designee status under the provisions of NAVMEDCOMINST 6320.3B. The NC&PB may also recommend secretarial designee status in exceptional cases.

319. Records

a. A record of votes in each clemency and parole decision and recommendation will be maintained. Dissents will be identified. Members will sign a Results of Proceedings recording their decisions and recommendations.

b. A system of records of clemency and parole case files will be maintained per applicable directives.

*(1) The file contains individual applications for clemency and/or parole, reports and recommendations thereon indicating progress in confinement or while awaiting completion of appellate review if not confined, on parole, or supervised release; correspondence between the individual or his/her counsel and the NC&PB or other Navy offices; other correspondence concerning the case; the court-martial order and staff Judge Advocate's review; record of trial; and a summarized record of the proceedings of the Board.*

*(2) Retention and disposal. Completed/closed hard-copy files will be transferred to the Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409. Files will be routinely destroyed after 25 years.*

c. At a minimum, clemency and parole case files will be maintained as follows:

*(1) Clemency/parole decisions will be maintained by the NC&PB until case is closed. Hard-copy files will then be shipped to the Washington National Records Center.*

*(2) Computer files pertaining to clemency/parole cases will be maintained permanently.*

*(3) Semiannual and annual statistical reports will be maintained for 25 years. Such reports will reflect the number of cases reviewed and the final action. The data will also identify forms of clemency (e.g., restoration, reduction in confinement, remission of fine) and parole.*

*(4) Historical data concerning mission, functions, organization, policy and procedures of the departmental clemency and parole systems will be maintained for 25 years.*

320. Release of Information

a. Records maintained by NC&PB for use in parole and clemency determinations constitute law enforcement records, as defined by reference (r). All requests for information under the Privacy Act (PA) and/or Freedom Of Information Act (FOIA) shall be processed in accordance with references (r) and/or (s), as appropriate, with due



regard for the protection from disclosure provided to law enforcement records by the cited references, and for the exemption claimed for NC&PB files found in the List of Exempt Systems contained within reference (r). Offenders (first-party requesters) being considered for clemency or parole will, upon written request to Director, NCPB, be afforded access to their records consistent with the principles set forth in references (r) and (s). Requests by offenders for access to records pertaining to themselves shall be processed under both references (r) and (s) regardless of how the request is styled. The intent is to maximize release of information to offenders being considered for clemency or parole, subject to the protection from disclosure and exemption mentioned above. See the policy discussion in reference (s) for guidance on the use of exemptions and discretionary release of information. Particular care shall be exercised in the processing of the following requests:

(1) Medical and psychological records which, if made known to the eligible offender, "could have an adverse affect on the mental or physical health of the individual." (See the discussion on "Denying Individual Access" to records in reference (p).)

(2) Documents which reveal sources of information, obtained upon a promise of confidentiality, including, but not limited to, a victim's statement. (See the definition of "confidential source" in reference (r), and the general discussions about law enforcement records in references (r) and (s).)

(3) Any other information, which, if disclosed, could reasonably be expected to endanger the life or physical safety of any individual. (5 U.S.C. sec. 552(b)(7)(F).)

(4) Information/documents provided to the NC&PB by the United States Disciplinary Barracks, *naval brigs or by any State/Federal agency will be released under references (r) and (s).*

b. Documents affected by exemptions from disclosure contained within references (r) and (s) will be withheld or redacted only to the extent required by references (r) and (s). Otherwise, upon written request, they will be released to the extent permissible under the PA and FOIA.

c. As the Responsible Official for Naval Clemency and Parole matters, the NC&PB will provide sufficient advanced notice to the confinement facility of all proposed clemency and parole hearing dates to allow enough time for the facility to notify victims who have requested such notification. Victims shall have the opportunity to submit documentary evidence or correspondence to be reviewed by the board and to a personal appearance if determined appropriate.

d. The NC&PB and its staff may discuss clemency or parole cases with the following individuals, consistent with the privacy rights of the individual concerned:

- (1) The individual concerned.
- (2) The individual's family, next of kin, or authorized representative.
- (3) The victim, victim's family, next of kin, or authorized representative.
- (4) Any person having a need to know in the performance of his or her duties or having information required by the NC&PB.

321. Correspondence and Questions. Correspondence and questions pertaining to the Department of the Navy clemency and parole systems as contained within this instruction will be answered either by the staff of the NC&PB or the Director, Naval Council of Personnel Boards, as appropriate. Written requests should be directed to the attention of:

President, Naval Clemency and Parole Board  
720 Kennon Street, SE, Room 309  
Washington Navy Yard  
Washington, DC 20374-5023

Telephonic requests may be made to the Administrative Section at DSN 325-6455 or Commercial (202) 685-6455. FAX requests may be made to DSN 325-6629 or Commercial (202) 685-6629.

Internet inquiries soliciting general information about NC&PB should be directed to the following Website:

[http://www.hq.navy.mil/ncpb/NC&PB\\_main\\_page.htm](http://www.hq.navy.mil/ncpb/NC&PB_main_page.htm)

PART IV

CLEMENCY REVIEW POLICY AND PROCEDURES

401. Eligibility for Clemency Review. The cases over which SECNAV (NC&PB) has jurisdiction to conduct clemency review are established in paragraph 304 and as hereinafter defined as eligible. Only selected offenders convicted by special or general courts-martial whose sentences have been approved by the convening authority are eligible for initial and, as required hereinafter, subsequent clemency review. The categories of selected offenders eligible for clemency review by NC&PB are:

a. Mandatory Clemency Review. Any offender whose sentence as approved by the convening authority includes confinement for 12 months or more, including any offender

(1) who has been transferred to the jurisdiction of the Attorney General of the United States and/or is incarcerated in a facility of the FBOP serving a term of confinement adjudged by court-martial; or

(2) who has been released on parole from an FBOP facility by the U.S. Parole Commission and is under the supervision of a USPO; and

(3) who has not submitted a written waiver of clemency review is entitled to mandatory clemency review until released from supervision either because of completion of *supervised release (as if on parole)* or completion of confinement due to completion of full-term date while on parole.

b. Requested Clemency Review. Any offender whose sentence as approved by the convening authority includes confinement for less than 12 months and an unsuspended punitive separation or any supervised releasee of a *military facility or facility* of the FBOP after service of a term of confinement adjudged by court-martial who submits a written request for clemency review is entitled to clemency review.

c. Coast Guard. Upon request of the Commandant of the U.S. Coast Guard, any Coast Guard offender's case will be reviewed and an advisory opinion provided the Commandant of the U.S. Coast Guard.

d. Clemency Flow Chart/Matrix. Appendix E provides a visual depiction of the clemency eligibility decision matrix. Nothing in Appendix E, however, should be construed as mandating actions or decisions not required within the main text of this instruction.

402. Eligibility for Types of Clemency. All offenders eligible for clemency review may be granted clemency of an appropriate type with regard to the unexecuted portion of the sentence in consonance with the objectives and evaluative criteria set forth in Part III of this instruction. (See paragraphs 309 and 310.)

a. All offenders whose sentences include approved confinement for 12 months or more or an approved, unsuspended punitive separation will ordinarily be eligible for remission, mitigation or suspension of any unexecuted portion of their sentences, including the upgrading of the punitive discharge/*dismissal* or substituting the unexecuted punitive discharge/*dismissal* with an administrative discharge *either (1) under honorable conditions or (2) under other than honorable conditions (OTH).*

b. All offenders whose sentences include an approved, unsuspended, *unexecuted* punitive discharge or unsuspended dismissal are eligible for restoration, retention or reenlistment, if

(1) they are suitable, as defined in subparagraph c below, and evidence, by written request, a desire for restoration, retention or reenlistment; and

(2) they have completed all or a portion of the sentence to confinement, if any was adjudged or ordered executed without suspension.

c. Ordinarily the following offenders are not eligible for restoration, retention or reenlistment:

(1) Offenders convicted of an offense involving serious violence, national security as defined in the JAGMAN, distribution of controlled substances, desertion or unauthorized absence from a ship or unit in or scheduled to enter a combat area, sexual perversion, or theft from another service member.

(2) Offenders who are mentally or physically unsuitable for duty, or have a record of military or civilian offenses indicating incorrigibility.

c. Restoration or retention of an offender is accomplished either by remitting the *unexecuted* punitive discharge/*dismissal* or by suspending the approved, *unexecuted* punitive discharge/*dismissal* for a stated period of service or until the occurrence of an anticipated future event, the period of suspension not normally to exceed 1 year. The NC&PB will specify the period of suspension or any anticipated future event whenever it grants or recommends restoration to duty by suspending the *unexecuted* punitive discharge/*dismissal*.

(1) The unsuspended, *unexecuted* punitive discharge of an enlisted offender may be suspended and the offender restored to duty only if sufficient time remains on the offender's current enlistment (as extended by lost time) to permit service through the entire period of suspension.

(2) The unsuspended, *unexecuted* punitive discharge of an enlisted offender who does not have sufficient time remaining on the current enlistment (as extended by lost time) may be suspended if the offender agrees in writing, prior to the effective date of the

suspension, to an appropriate extension of enlistment to enable the offender to serve the entire period of the suspension.

e. Any period of suspension directed by the NC&PB begins and expires as directed by NC&PB or SECNAV. The date the suspension period begins to run ordinarily is the date of the NC&PB action. Expiration of the period of suspension will automatically cause the remission of the punitive *discharge/dismissal* unless the suspension is sooner vacated. The suspension may be vacated for cause in accordance with the MCM and other pertinent regulation and law. The NC&PB must be notified in writing of the vacation of any suspension.

*f. Select offenders whose punitive discharge or dismissal has been executed are eligible to apply for clemency to substitute, for good cause, an administrative discharge for an executed punitive discharge or dismissal. Specifically, NC&PB's jurisdiction is limited to considering those cases where the service member is retirement eligible (i.e., 20 years or more of creditable service) and where the service member files a clemency request with the NC&PB within 5 years of the date of the executed punitive discharge or dismissal.*

403. Clemency Review Eligibility Date. NC&PB will conduct an initial clemency review of the cases of all offenders eligible for clemency review within 60 days of the offender's clemency review eligibility date as defined below. Any required subsequent reviews will be conducted within 30 days of the anniversary of the clemency review eligibility date.

a. The clemency review eligibility date for all mandatory clemency review cases usually is 9 months from the day confinement began. The clemency review eligibility date for all requested clemency review cases is 10 days after the date the offender submits a request for clemency review to the convening authority or the OEGCMJ. *This paragraph does not apply to those offenders serving approved sentences of confinement for life without parole, if that sentence was adjudged for an offense committed on or after 30 October 2000.*

b. For purposes of establishing the clemency review eligibility date, the "confinement begin date" includes a constructive date calculated as follows: adjudged date minus all days of pretrial confinement and any administrative pretrial confinement credits plus (+) the days the sentence to confinement was properly deferred. Subsequent reviews conducted annually thereafter means until completion of *supervised release (as if on parole)* or at full-term date for those released from confinement on parole. (See paragraph 405b for procedures for clemency review for offenders whose completion of confinement occurs prior to the execution of their punitive separation.)

c. From the Results of Trial received by the Office of the Chief Judge, Navy-Marine Corps Trial Judiciary at the end of each calendar month, the Chief Judge shall (upon request by the President, NC&PB)

provide the name of any offender tried by court-martial who was adjudged a punitive separation and confinement of 12 months or more, the date sentence was adjudged, the identity of the convening authority and, if possible, the period the offender spent in pretrial confinement and the sentencing conditions of any pretrial agreement (particularly as it relates to the period of confinement approved and suspended).

d. Upon receipt of information that NC&PB has jurisdiction over a case, the NC&PB will monitor that case in relation to its clemency review eligibility date. If the NC&PB has not received a copy of the offender's record of trial, court-martial order, and post-trial progress report within 60 days of the offender's clemency review eligibility date, the NC&PB will initiate action to obtain the required documentation. Within 30 days of receipt of all required documentation, the NC&PB will conduct the offender's initial clemency review with subsequent clemency reviews conducted thereafter within 30 days of the offender's clemency review eligibility date. *Eligibility dates are as follows:*

*(1) When the approved, unsuspended sentence to confinement is 12 months or more but less than 20 years, initial clemency review will usually occur no later than 9 months from the date confinement began or within 90 days after the convening authority's action and at least annually thereafter.*

*(2) Following the initial clemency review (see Section 403d(1)), when an offender's approved, unsuspended sentence is 20 years or more but less than 30 years, subsequent clemency review by the NC&PB shall be at least annually beginning 3 years from the date confinement began.*

*(3) Following the initial clemency review (see Section 403d(1)), when an offender's approved, unsuspended sentence is 30 years or more, including life, subsequent clemency review by the NC&PB shall be at least annually beginning 10 years from the date that confinement began. This paragraph affects only those offenders in which any act with a finding of guilty occurred on or after 16 January 2000. For offenders whose offenses with a finding of guilty occurred prior to that date, and with unsuspended, approved sentences of 30 years or more, including a sentence to confinement for life, subsequent clemency review by the NC&PB shall occur not more than 5 years from the date confinement began and at least annually thereafter. This paragraph does not apply to those offenders serving approved sentences of confinement for life without parole, if that sentence was adjudged for an offense committed on or after 30 October 2000.*

*(4) When a offender's approved, unsuspended sentence for an offense committed on or after 30 October 2000, includes confinement for life without parole, initial clemency review by the NC&PB shall be*

*at least once every 3 years beginning 20 years after the date confinement began. SECNAV may not delegate the authority to grant clemency for approved sentences of life without parole. Subordinate clemency approval authorities may deny clemency for approved sentences of life without parole.*

*(5) Offenders sentenced to death are ineligible for clemency review by the NC&PB, unless the President commutes the death penalty to a lesser punishment.*

*(6) In those cases involving requested clemency review, the NC&PB will usually conduct a clemency review within 60 days of receipt of that request. If the NC&PB does not have the documents required to conduct its review but has received a copy of the request, it will initiate procedures to obtain those documents.*

*e. The NC&PB may omit a scheduled clemency review when an offender waives clemency review under the procedures set forth in paragraph 410.*

*f. The NC&PB, upon receipt of significant new information about an offender, may, on its own motion, conduct a clemency review before the offender's next clemency review eligibility date.*

*g. Except in the case of offenders sentenced to death, or to confinement for life or life without parole, an individual may, for cause, be granted special consideration by NC&PB for clemency, restoration, or reenlistment.*

*h. When an offender is considered for parole under Part V of this instruction, the NC&PB will also conduct a clemency review, to include, upon request, restoration to duty or reenlistment. If the offender is denied parole, the date of that denial establishes the offender's clemency review eligibility date for subsequent annual reviews.*

*i. After an offender is released on parole by the NC&PB, the NC&PB will conduct a clemency review within 30 days of the 1-year anniversary of the parole release date. Thereafter, the NC&PB will conduct the annual clemency review within 30 days of the anniversary of the date parole began; thus, the offender's parole release date becomes the clemency review eligibility date for subsequent annual reviews.*

*j. If a parolee is returned to confinement following revocation of parole, the NC&PB will resume conducting clemency reviews within 30 days of the anniversary of the clemency review eligibility date upon the offender's service of 1 year of confinement after return to confinement from parole.*

*k. In cases involving mandatory clemency review, where the convening authority's action is taken after an offender's clemency review eligibility date, or where lack of documentation prevents NC&PB*

from conducting a timely review after reasonable attempts to obtain such documents, the NC&PB may, with or without using the evaluative criteria set forth in paragraph 310, grant clemency in an amount that does not exceed the unexecuted confinement, forfeitures or fine, including periods of suspension, equivalent to the lapse of time between the clemency review eligibility date and the date of review. Punitive separations are not affected by this administrative enforcement provision. Additionally, this administrative enforcement provision is not intended to and does not create any rights, substantive or procedural, enforceable at law by any offender or any other person in any matter, civil or criminal.

1. Failure of NC&PB to receive the documents required for conducting clemency review within 90 days after an offender's clemency review eligibility date, without good cause shown, will permit the NC&PB to invoke the enforcement provision found in paragraph 403k. Good cause ordinarily consists of something that affected either (1) the decision not to request clemency review that was beyond the control of the offender such as receipt of information that was unknown or unavailable to the offender at the time the decision had to be made; or, (2) a reasonable explanation from the convening authority as to what caused the delay in taking action within the 6 month period before the clemency review eligibility date such as the complexity of the issues that had to be resolved by the convening authority before action could be taken. If good cause is found to exist, the NC&PB will review the case, including those cases in which no portion of the sentence remains unexecuted. In those cases in which no portion of the sentence remains unexecuted, the NC&PB will make a determination that its review of unexecuted portions of the sentence was hindered by the good cause found and recommend corrective action, if appropriate, to the Secretary.

404. Schedule for Clemency Review. Offenders who are eligible for mandatory clemency review (except for offenders in the custody of the FBOP or under the supervision of a USPO) and offenders who desire to request clemency will act in accordance with the following schedule:

a. Mandatory Clemency Review. Within 10 days after receipt of the convening authority's action in the offender's case, an offender eligible for mandatory clemency review who does not desire clemency review by the NC&PB will submit to the convening authority or the OEGCMJ, in writing, copy to NC&PB, a waiver of mandatory clemency review. This waiver should include signature and date to ensure compliance with applicable time goals. The procedures for such a waiver are provided in paragraph 410. The offender is entitled to the advice of defense counsel before submitting such a waiver. (See paragraph 410b.) Upon expiration of the 10 days, if a waiver of clemency review has not been received by the convening authority, the convening authority will forward to NC&PB a copy of the offender's record of trial, court-martial order and will ensure that a post-trial progress report is submitted.



b. Requested Clemency Review. No later than 10 days after the receipt of the convening authority's action, an offender not eligible for mandatory clemency review but eligible to request clemency review will notify the convening authority or the OEGCMJ, in writing, copy to the NC&PB (and another copy to Navy and Marine Corps Appellate Leave Activity), that the offender requests clemency review. The offender then has 20 days within which to file the request for clemency review and any supporting documents with the convening authority or OEGCMJ. Failure to meet the submission requirements in a timely manner, without good cause shown, may result in denial by NC&PB of the request for clemency review. The offender is entitled to the assistance of defense counsel in submitting such a request.

c. The offender's trial defense counsel will ensure that offenders eligible for annual mandatory clemency review are advised of their clemency review eligibility date. Offenders may waive an annual mandatory clemency review and, if that is their desire, the procedures set forth in paragraph 410 will be followed.

d. Offenders may withdraw their case from clemency review by the NC&PB any time prior to the NC&PB's review by submitting a signed written withdrawal to the NC&PB witnessed in accordance with the provisions of paragraph 410f. The signed written withdrawal may be in the form of a letter or a pen-changed modification of *DD Form 2715-3*, the pen-change indicating "withdrawal" or "withdraw," as appropriate, wherever the word "waiver" or "waived" appears.

e. Waiver of submission of matters under Rule of Courts-Martial 1105 does not constitute a waiver of clemency review under the provisions of this instruction.

#### 405. Initiation of Clemency Review

a. Offenders Who Are Confined. For offenders who will be in confinement at the time of their clemency review eligibility date, the commanding officer will, without further direction, determine the offender's clemency review status. If the commanding officer determines that an offender subject to mandatory clemency review has not submitted a waiver in accordance with paragraph 404a, or that an offender has requested clemency review in accordance with paragraph 404b, the commanding officer will initiate the clemency review process without further direction.

b. Offenders Who Are Not Confined. For offenders who will not be in confinement at the time of their clemency review eligibility date, the convening authority will determine whether the offender has waived clemency or requested clemency without further direction. If the convening authority determines that the offender subject to mandatory clemency review has not waived clemency review, or an offender has requested clemency review, the convening authority will initiate the clemency review process without further direction. The fact of receipt or non-receipt by the convening authority of a waiver of mandatory

clemency review or a request for clemency review per the schedule set forth in paragraph 404 may be the basis upon which a determination is made to initiate the clemency review process.

406. Special Clemency Reviews

a. Commanding officers may submit clemency review documentation to the President, NC&PB, for a special review any time before execution of the punitive separation or completion of confinement. This type of request normally should be reserved for instances in which newly discovered, substantially relevant information would alter a previous recommendation *or for cases being reviewed for special holiday release. Notwithstanding other provisions in this Instruction, NC&PB is delegated final decisional authority in special holiday release cases.*

b. The CMC and the BUPERS may request special reviews as deemed necessary.

c. The SECNAV; the Director, NCPB; and the President, NC&PB, may direct special reviews; and the NC&PB itself may review cases on its own motion.

d. Those recommending special clemency review should ensure the NC&PB has a post-trial progress report as current as possible, although the convening of a special Disposition Board is not required.

407. The Post-Trial Progress Report. The post-trial progress report includes, but is not limited to, the following:

a. A signed written request for clemency for those cases where the offender is not entitled to mandatory clemency review.

b. A statement, in some form, from the offender stating the type and amount of clemency requested and the reasons for the clemency requested; otherwise NC&PB will review the offender's case and consider all types of clemency.

c. An evaluation from either the offender's commanding officer or the convening authority regarding the offender's attitude, conduct and performance since sentence was adjudged if the offender returned to duty for more than 90 days after release from confinement.

d. An evaluation from either the offender's commanding officer or the convening authority regarding the offender's potential for restoration, retention, or reenlistment and appellate leave status.

e. A psychological/psychiatric evaluation, if one has been completed since the date sentence was adjudged, or if one is deemed appropriate in light of circumstances known or made known to the commanding officer or the convening authority prior to or since the date sentence was adjudged, including a substance abuse/dependency evaluation, if appropriate.

f. Endorsements of officials in the chain of review.

g. The following forms will be used in connection with the clemency review of eligible offenders except those in the custody of the FBOP or under the supervision of a *USPO*.

(1) To request clemency review *DD Form 2715-3*, or its equivalent (required only for those offenders not eligible for mandatory clemency review).

(2) To prepare post-trial progress reports

(a) For offenders confined at their clemency review eligibility date -- *DD Forms 2715, 2715-1, 2715-2, 2715-3, and 2719*, or their equivalent, may be used.

(b) For offenders not confined at their clemency review eligibility date--a status report relating information of a nature similar to that contained in *DD Forms 2715, 2715-1, 2715-2, 2715-3, and 2719*, but modified to reflect a non-confinee's attitude, conduct and performance of duty, including:

1. Comments from the offender's immediate supervisor if the offender returned to duty for more than 90 days after release from confinement.

2. A substance abuse/dependency evaluation if the offense for which the offender was convicted was alcohol or drug related or the offender has a history of such abuse.

3. If the offender had been confined as the result of an adjudged sentence by court-martial but released from confinement due to completion, deferment or suspension of confinement, comments should include the commanding officer's evaluation (*DD Forms 2715, 2715-1, 2715-2, 2715-3, and 2719* or their equivalent, as appropriate) of the offender while in confinement.

(c) For offenders on appellate leave at the time of their clemency review eligibility date, the convening authority or the OEGCMJ over the offender at the time of his/her release from confinement will forward a copy of the offender's executed appellate leave orders and notify the NC&PB of the status of the payment of any fines adjudged against the offender, or any restitution made to any victims, if any, and all other relevant information.

h. If NC&PB is not in receipt of a post-trial progress report on an offender still serving confinement at the time the offender is eligible for annual (i.e., subsequent to the initial) review of his/her case, NC&PB will hear the case as scheduled without such report unless it directs that review be held in abeyance until the report is received.

408. Timeliness and Schedule for Submission of Post-Trial Progress Reports. For NC&PB to conduct an initial clemency review within 60 days of the offender's clemency review eligibility date, and within 30 days of the anniversary of the offender's annual clemency review eligibility date, the post-trial progress report must be received in a timely manner. To ensure that timeliness, the following provisions for submission of the post-trial progress report are established:

a. Post-trial progress reports on offenders with approved unsuspended punitive separations and less than 12 months confinement who will not be confined at the time of their clemency review eligibility date will be submitted to the NC&PB as soon as practicable but no later than 30 days after the date of the request.

b. Post-trial progress reports on offenders who will be in confinement at the time of their clemency review eligibility date will be submitted to the NC&PB when the offender has served 7 months from the date confinement began and then annually thereafter on the anniversary of the clemency review eligibility date until completion of service of sentence to confinement.

c. Post-trial progress reports for offenders programmed for transfer to the custody of the FBOP will be submitted to the NC&PB 4 months prior to the projected transfer date, if possible. Each of these post-trial progress reports should be clearly marked as pertaining to an upcoming Federal transfer. NC&PB will forward to the U.S. Parole Commission (with recommendations, as appropriate) a copy of the offender's briefing file held by NC&PB.

d. Copies of the offender's post-trial progress reports will accompany an offender when the offender is transferred to another naval brig or confinement facility for completion of service of the offender's court-martial sentence. One copy of the offender's most recent post-trial progress report that accompanies the offender upon transfer and a copy of the offender's transfer orders will be sent to NC&PB. Should the offender's conduct have significantly changed since the date of that most recent progress report, comments to that effect should be made by endorsement of the commanding officer.

409. Procedures for Submission and Endorsement of Post-Trial Progress Reports for Clemency Review

a. Commanding officers will submit the original of the post-trial progress report to the President, NC&PB, on offenders not in confinement at the time of their clemency review eligibility date in accordance with the schedule set forth in paragraph 408a and the requirements of paragraph 407.

b. Commanding officers will submit the original of the post-trial progress report to the President, NC&PB, on all naval service

personnel in confinement at the time of their clemency review eligibility date in accordance with the schedule set forth in paragraph 408b.

c. Commanding officers will ensure that the post-trial progress reports are completed as follows:

(1) All required DD forms, or their equivalent, comprising the basic progress report, plus the individual's clemency request, if any, will be completed in their entirety except as provided in paragraphs 409d and 409e.

(2) All offenders who have an approved sentence will be evaluated for substance abuse/dependency. The substance abuse/dependency evaluation will be made by a trained substance abuse counselor whose primary duty is screening and evaluating service members for substance abuse/dependency. If the substance abuse counselor determines the offender is dependent or cannot resolve the dependency issue by finding non-dependency, the substance abuse counselor will refer the offender to a psychiatrist or clinical psychologist trained in substance abuse matters for a medical diagnosis in accordance with the nomenclature of the *current* Diagnostic Statistical Manual (DSM), if appropriate. Where there is no psychological/psychiatric diagnosis, the evaluation will so state. If the offender has had any contact with the Navy or Marine Corps Substance Abuse Program prior to incarceration, that fact should be brought to the attention of the NC&PB. (See reference (j).)

(3) For offenders convicted of sex offenses or other serious violent crimes whose approved unsuspended sentence to confinement includes 12 months or more, a psychiatric/psychological evaluation will be completed by a psychiatrist, clinical psychologist, or clinical social worker trained in the evaluation and treatment of those types of offenders necessary to meet their specific treatment and therapeutic rehabilitation.

(a) The evaluation will include a complete, individualized psychological/psychiatric history of the offender.

(b) A diagnosis consistent with the nomenclature of the *current* DSM will be recorded. Where there is no diagnosis, the evaluation will so state. The relationship between the psychopathology (including substance abuse or dependency) and the confining offense will be specified, even if the psychopathology did not render the offender incompetent. If there is a relationship between psychopathology (or substance abuse/dependency) and the offense, the probability of recurrence of criminal behavior should be clearly stated.

(c) In cases involving child abuse, sexual abuse, or other serious violence against a person, a recommendation concerning treatment should be made. Whether or not treatment is recommended, an

assessment of the offender's threat to society will be included. If the offender has had any contact with the Family Advocacy Program of the Navy or Marine Corps, that fact should be brought to the attention of the NC&PB.

(d) Psychiatrists, clinical psychologists, or clinical social workers must also estimate the probable efficacy of post-discharge treatment program(s) if there is any history of psychological or substance abuse problems, and indicate whether or not the individual is motivated for such a program, if appropriate.

(e) Psychiatrists, clinical psychologists, or clinical social workers may comment on any part of the sentence which they believe should be modified.

(f) The psychological or psychiatric evaluation should be amended or a new evaluation prepared whenever new information might change the impression, diagnosis or prognosis.

(4) The post-trial progress report should state the citizenship of the offender. In cases of an offender who is not a U.S. citizen, the report should indicate the date and place of entry and, where applicable, the alien registration number.

(5) A statement will be included indicating that an FBI National Crime Information Center (NCIC) computer system criminal history check has been made and the results.

(6) A victim impact statement, if appropriate and available, consistent with the evaluative criteria found in paragraph 310f may be considered.

(7) A disposition board will submit recommendations and supporting reasons in the cases of all offenders confined in naval brigs.

(8) The commanding officer will submit recommendations and supporting reasons in the cases of all offenders confined in naval brigs.

d. If the sentence does not include confinement or if confinement has been deferred or suspended from the date confinement was adjudged, a report of a disposition board and a commanding officer is not required, and those portions of DD Forms 2715-2719 or their equivalent that refer to performance in confinement are not applicable. The remainder of the forms, however, will be completed by the convening authority or the OEGCMJ.

e. If the commanding officer is unable to forward a complete post-trial progress report because the adjudged or sentenced offender refuses to cooperate in its preparation, is an unauthorized absentee

or because of an explained administrative error, the commanding officer will forward the incomplete report and state therein the reasons prescribed procedures could not be followed.

f. If an offender executes a request or waiver which is a change from one previously forwarded, or if new information is obtained which would result in a change to a recommendation on a request previously forwarded, and, in either situation, final action as described in paragraph 314 has not been taken by NC&PB, the commanding officer will notify the NC&PB immediately. Appropriate forms and information supporting the new request, waiver or recommendation will be forwarded to NC&PB as soon as practicable. This paragraph will not be construed as authorizing a withdrawal of a waiver previously forwarded.

g. The NC&PB will request prison wardens to submit progress reports and any recommendations, if appropriate, for clemency in the cases of naval offenders who are serving sentences of courts-martial in the custody of the FBOP. If such offenders have been paroled from the FBOP, the NC&PB will request reports and recommendations from supervising U.S. Probation Officers. Requests from offenders, either incarcerated or paroled, are not required. The reports and recommendations should be executed at the frequency stated in paragraph 408b and should be forwarded directly to the President, NC&PB.

h. If the convening authority has not previously forwarded to the NC&PB one copy of the offender's record of trial and courts-martial order at the time the post-trial progress report is submitted, those documents must be forwarded in conjunction with the submission of the post-trial progress report.

i. Although this provision refers to clinical psychologists and clinical social workers, it is understood that BUPERS may, upon submission of qualifications, waive the requirements and accept psychological evaluations from any civil service rated psychologist who has been trained in the treatment and rehabilitation of the specific offense. If no such individual is available at the naval brig, however, then the offender will be referred for such evaluation.

#### 410. Procedures for Waiving Mandatory Clemency Review

a. The convening authority, commanding officer, or the OEGCMJ (the authority geographically closest to the offender unless otherwise designated by the OEGCMJ) will ensure that offenders waiving mandatory clemency review understand clearly:

(1) The consequences of their options as outlined on DD Form 2715-3.

(2) That the NC&PB will not review the case again until the next annual mandatory clemency review unless scheduled or directed as provided by paragraph 406.

(3) That NC&PB's mandatory clemency review is an administrative process that is independent of, and different from the clemency review available under Article 74, UCMJ; R.C.M. 1105, MCM; and the provisions of 10 U.S.C. secs. 1552 Board for Corrections of Naval Records (BCNR) and 1553 Naval Discharge Review Board (NDRB).

b. The waiver of initial mandatory clemency review will be executed by the offender in the presence of and witnessed by the offender's trial or appellate defense counsel, ordinarily a judge advocate certified in accordance with Article 27(b), UCMJ, his/her civilian attorney or a judge advocate detailed or made available for the sole purpose of advising the offender of the clemency options available and their consequences. A judge advocate detailed solely for the purpose of advising the offender of clemency options will make clear to the offender the limited extent of this service and that such advice will not be construed as establishing an attorney-client relationship although attorney-client confidentiality will be observed.

c. If an offender waives the initial mandatory clemency review, the convening authority, commanding officer or OEGCMJ, as appropriate, will forward the original of the completed Waiver of Clemency Review, *DD Form 2715-3*, or its equivalent, and a copy of the court-martial order or results of trial directly to the President, NC&PB, per the schedule for submission of post-trial progress reports. (See paragraph 408.)

d. A waiver of initial mandatory clemency review by offenders with sentences of 2 years or less constitutes a waiver of all clemency review by the NC&PB because their minimum confinement release date will ordinarily occur before the first anniversary of their clemency review eligibility date. (A copy of the offender's record of trial and court-martial order must be forwarded to the NC&PB in all cases in which the offender's approved sentence to confinement includes an approved 18 months or more despite the offender's waiver of initial clemency review in order for NC&PB to review the offender's case should the offender request parole.)

e. After an offender has submitted a waiver of initial mandatory clemency review, that offender may waive any subsequent annual mandatory clemency reviews by executing the waiver form in the presence of a judge advocate, civilian lawyer or commissioned officer. The lawyer or commissioned officer will advise the offender of the clemency options and their consequences and will witness execution of the form. Advice provided by the judge advocate is limited and does not result in the formation of an attorney-client relationship unless that judge advocate is continuing an attorney-client relationship as a result of assignment as the offender's trial defense or appellate defense counsel.



f. An offender may rescind any waiver of clemency review he/she submitted within 90 days of the date of the execution of the waiver. Rescissions will be submitted via the offender's commanding officer, copy to NC&PB. The commanding officer will forward the rescission with recommendations regarding clemency within 10 days of the receipt of the rescission. By copy of the commanding officer's endorsement of the offender's rescission, the commanding officer notifies the OEGCMJ over the offender at the time of the offender's court-martial of the rescission in order to ensure compliance with the clemency review documentary filing requirements set forth in this instruction except as provided in subparagraph g. below as well as the admonition specifically set forth in paragraph 414.

g. Post-trial progress reports are not required in cases in which the offender waives mandatory clemency review. If an offender who has waived clemency review rescinds that waiver, a post-trial progress report is required only if the offender is still in confinement on the date of rescission. If the offender who rescinds a waiver is not confined at the time of rescission, but desires NC&PB to consider information relating to his/her behavior, attitude and progress during his/her period of confinement, it is the offender's responsibility to obtain and submit such information. The offender may submit statements from naval brig personnel and others attesting to their individual vice official opinion as to the offender's behavior, attitude and progress during and after confinement. A Disposition Board is not required.

h. The forwarding endorsement on the Waiver of Clemency Review will contain a certification that the offender submitting the waiver is either:

(1) Not substance dependent within the meaning of *the current* DSM and *the current* International Classification of Diseases, or,

(2) Has been offered treatment through either a military treatment facility (MTF) or the Department of Veterans Affairs (VA).

i. Since mandatory clemency review under this instruction is an administrative review outside the UCMJ, a waiver of appellate review, in and of itself, does not constitute a waiver of initial mandatory clemency review under this instruction although it may be a waiver with regard to clemency review under regulations implementing Article 74, UCMJ. In order for a waiver of NC&PB review to be valid, it must contain a specific statement indicating the offender also waives mandatory clemency review before NC&PB. An offender's waiver of Rules for Courts-Martial (R.C.M.) 1105 submissions is not a waiver of clemency review by NC&PB.

j. Waivers of mandatory clemency review subsequent to the initial clemency review should be submitted per the schedule for submission of post-trial progress reports set forth above.

k. Copies of waivers of NC&PB clemency review will be forwarded to the OEGCMJ.

411. Notification of Offenders Pending Appearance Before Clemency Hearing. Once a clemency review is scheduled for an offender eligible under the provisions of this instruction, the NC&PB shall notify the confinement facility of the offender prior to the date of the review.

412. Action Upon Receipt of NC&PB-Promulgated Clemency Decisions

a. The CMC or BUPERS, as appropriate, will ensure that the clemency decision is entered in the field service record or service record book of the offender, and any known victim is informed, as required by reference (p). Entries will include action directed, the date of the action, the authority and, if applicable, the rationale. In cases of restoration to duty, the entry will include the date specified for restoration to duty, the period for which the unexecuted portion of a sentence is suspended and the total unexecuted portion of the sentence remaining to be executed if the suspension is subsequently vacated. If the offender has completed the period of confinement and only the punitive separation is suspended incident to restoration, the fact should be clearly stated: "No confinement remains to be served on this sentence."

b. If clemency review results in modification of the sentence, the OEGCMJ will, except as otherwise provided in paragraph 414 of this instruction, issue a supplementary court-martial order implementing such action. The OEGCMJ will provide the offender with a copy of that action. (The OEGCMJ should send the copy to the most current address known. *The OEGCMJ is on notice of that address if the offender is still serving sentence to confinement either in a naval brig or the FBOP or is on parole or supervised release at the time of the supplementary court-martial action.*)

c. Where final clemency action taken under this instruction results in the suspension or remission of a punitive separation, *thereby restoring* the offender to active duty, administrative discharge proceedings may not be initiated against the offender except for matters separate and distinct from those involved in the court-martial for which the clemency action was taken. "Matters separate and distinct" is misconduct on the part of the offender that occurred subsequent to the date of the convening authority's action or of which the NC&PB was not aware at the time it took its action. This does not prohibit the initiation of vacation proceedings and action taken under R.C.M. 1109(e), where appropriate, nor does it prohibit the discharge of the offender if that discharge is in accordance with his/her service record.

d. Should the NC&PB promulgating order direct that the offender be afforded an opportunity to participate in a treatment/rehabilitation program which the offender had waived prior

to the NC&PB action, the OEGCMJ will re-offer the program to the offender.

e. All clemency actions ordered under this instruction are effective *the date of the NC&PB/SECNAV decision*.

f. In those cases where clemency action remits confinement to the extent the offender's sentence to confinement has been completed but judicial review has not been completed, the OEGCMJ, or other proper authority, should ensure that the offender has valid appellate leave orders with instructions relating to the obtaining/retaining of a valid AFIC. (See paragraph 517h.)

413. Unsatisfactory Performance/Conduct. Unsatisfactory performance/conduct on the part of an offender which is sufficiently serious to be made a matter of official record and which becomes known after submission of the post-trial progress report, but prior to receipt of final action relating to clemency or prior to the issuance of the supplementary court-martial order implementing a grant of clemency, will *initiate* the following process:

a. The commanding officer, the convening authority or the OEGCMJ will, without delay, report the circumstances of the unsatisfactory performance/conduct to the President, NC&PB. The report will include recommendations to grant or deny clemency or reconsider any previous NC&PB/SECNAV decision to grant clemency.

b. In the event clemency has been directed by NC&PB/SECNAV, the commanding officer will also notify the OEGCMJ of the unsatisfactory performance/conduct. The OEGCMJ will withhold execution of the clemency action that has been directed, pending notification, reconsideration, and final determination.

c. The OEGCMJ who withholds clemency action due to an offender's unsatisfactory performance/conduct will make an immediate report to that effect to the President, NC&PB. Once the clemency action has been withheld, the OEGCMJ may not thereafter execute any part of the clemency action or execute a punitive separation until the decision of the NC&PB/SECNAV has been reconsidered and a final determination has been promulgated by the NC&PB.

d. When clemency has been withheld, a field service record or service record book entry will be made.

e. The offender will be notified by the commanding officer or the OEGCMJ of any NC&PB/SECNAV decisions involving clemency, including the withholding of clemency granted. When an offender is notified that clemency action ordered by the NC&PB/SECNAV is being withheld, the offender will also be advised of the reasons for the withholding and that he/she may submit matters to the NC&PB for its consideration in determining the status of its previous order of clemency.

f. Upon receipt of the OEGCMJ report notifying the NC&PB of the withholding of clemency, the NC&PB will promptly notify the offender of the date the NC&PB will reconsider its clemency action/recommendation, and provide the offender with the opportunity to submit, via the OEGCMJ, within a reasonable period of time, matters he/she desires the NC&PB to consider with regard to the alleged unsatisfactory performance/conduct. The NC&PB will then reconsider the clemency action/recommendation in light of the report of the OEGCMJ withholding the clemency action and matters presented by the offender. The NC&PB/SECNAV may reaffirm, modify or withdraw the clemency order previously issued.

414. Liaison. Authorities desiring to exercise clemency in an offender's case pursuant to their authority under Article 74, UCMJ, or authority delegated under section 0158 of the JAGMAN (other than the exercise of such authority in accordance with the issuance of a supplementary court-martial order as provided within this instruction) will coordinate with the NC&PB. Liaison will be accomplished for cases involving enlisted/officer offenders as follows:

a. An OEGCMJ under authority delegated in section 0158 of the JAGMAN who takes action to remit or suspend any part or amount of a sentence that includes a punitive separation or confinement of 12 months or more will ensure that a copy of the official action is forwarded, without delay, to the President, NC&PB, with one copy to the CMC (*PSL - Plans, Policy, Operations, Security, and Law Enforcement (Corrections)*) or BUPERS (*PERS-84*), as appropriate.

b. In order to avoid inconsistencies or conflicts, any OEGCMJ who plans to grant clemency, as described in the above paragraph, will determine whether or not the case is pending review by the NC&PB within the following three months.

(1) In the event the case is not scheduled for initial clemency review or annual review within the following 3 months, and a special review has not been directed as provided in paragraph 406, the OEGCMJ will exercise clemency as deemed appropriate and forward a copy of the action taken to NC&PB.

(2) If the review is scheduled within the following 3 months, the OEGCMJ will notify the President, NC&PB, that clemency action is being considered in the case. Upon receipt of such notification, the President, NC&PB, will delay NC&PB clemency review of the case until receipt of the OEGCMJ action in the case. The OEGCMJ will promptly forward to NC&PB a copy of the issued action (supplementary court-martial order).

415. Execution of Punitive Separations. Approved, unsuspended *punitive discharges/dismissals* of offenders will not be executed until the initial mandatory clemency review, held in accordance with this instruction, has been completed or waived, and judicial review is completed in accordance with Article 71, UCMJ. Upon completion of

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judicial and clemency review, the OEGCMJ, or other proper authority, will issue a supplemental court-martial order ordering the execution of the punitive discharge or *dismissal*. A copy of that supplemental court-martial order will be provided the NC&PB and CMC (*PSL-Corrections*) or BUPERS (PERS-84) and the Navy and Marine Corps Appellate Leave Activity, as appropriate.

PART V

PAROLE POLICY AND PROCEDURES

501. Jurisdiction. All cases within the jurisdiction of SECNAV (NC&PB) as defined in paragraph 304 and hereinafter qualified provided they are also in compliance with section 503:

a. Naval Service Offenders. Naval service offenders (and other persons subject to the UCMJ who are tried by Navy and Marine Corps courts-martial) serving confinement in naval brigs as a result of an approved sentence imposed by courts-martial whose sentence includes confinement for 12 months or more and who have served at least one-third but not less than 6 months of their sentence to confinement are eligible for a parole review hearing under this instruction.

b. U.S. Coast Guard Offenders. Under references (m) and (n), NC&PB shall review the cases of U.S. Coast Guard offenders who are eligible for parole in accordance with the same policy and procedures that apply to naval service offenders.

c. Naval Service Offenders Serving Courts-Martial Sentences While in the Custody of Federal (FBOP), State or Local Authorities

(1) Naval service offenders in the custody of the FBOP who are in that custody as a result of transfer from a naval brig for the purpose of serving a sentence to confinement imposed as the result of a court-martial sentence are not within the parole authority of SECNAV and are excluded from the provisions of this instruction as they relate to parole. For the purposes of this instruction, SECNAV's lack of parole authority over naval service offenders in the custody of the FBOP is contingent upon the continued existence of the U.S. Parole Commission.

(2) Upon the expiration of the authority of the U.S. Parole Commission, SECNAV's parole authority over naval service offenders in the custody of the FBOP for the purpose of serving confinement imposed as the result of a court-martial sentence is reinstated, unless otherwise directed, and parole status of the offender will be determined by the NC&PB in accordance with the same parole consideration as naval service offenders serving their sentences to confinement in naval brigs.

(3) Naval service offenders in custody of State or local authorities serving a sentence to confinement imposed as the result of a court-martial may or may not be within the parole authority of SECNAV depending upon the agreement arranged between such authorities and SECNAV upon transfer/detention of the offender. If SECNAV does have parole decision-making authority over the offender, then the provisions of this instruction apply; if SECNAV does not, then the offender is excluded from consideration of parole under the provisions of this instruction. Each case will be determined on an individual case basis.

(4) NC&PB will liaise with FBOP, State or local authorities to ensure known victims are informed about the status of offenders (e.g., date of parole hearing), as required by references, (o), (p), (s), and (v).

d. Naval Service Offenders Confined in Federal, State or Local Confinement Facilities Not Serving Court-Martial Sentence. Naval service offenders in the custody of Federal, State or local authorities not serving sentence to confinement imposed as result of court-martial sentence, but who have a military detainer placed upon them requiring their return to the custody of the naval service upon release from Federal, State or local custody are not within the jurisdiction of the NC&PB until the date of their return to military custody. Upon return to military custody, NC&PB will ensure victims are kept informed (e.g., date of parole hearing), as required by reference (p).

e. The parole review process begins when the offender is eligible for parole and submits a request for parole.

g. Offenders whose convening authority actions or sentences have been set aside by the U.S. Navy-Marine Corps Court of Criminal Appeals, the U.S. Court of Appeals for the Armed Forces, or other appropriate courts of law are not within the parole jurisdiction of the NC&PB regardless of the fact their request for parole was submitted prior to the judicial action. (See paragraph 522d.)

h. Offenders who are granted and accept parole remain under the control of the commanding officer of the naval brig from which they are released or such other facility or command as may be directed by CMC or BUPERS, respectively, until the expiration of the full term of the sentence to confinement without credit for good time or extra good time.

502. Policy and Objectives. Parole is a *modified* form of correctional treatment. It is the principal means of conditional release from the naval brig setting used by the naval service to reintegrate the offender into the community as a law-abiding citizen after the offender has served at least one-third of the approved sentence to confinement. Naval parole functions as a means for individualizing the naval corrections process and offering incentives for the offender to reform, while enabling the naval service, society in general and their authorities to retain custody through supervision. Parole entails supervision of the offender in the community with concern paid not only to the needs of the offender for successful reintegration into the community, but also to the community's needs in terms of protection. Parole particularly recognizes the need for a gradual and more structured return to the community with the opportunity to provide services and to monitor behavior to help ensure successful reintegration. Parole serves as a means of retaining control over an offender beyond the minimum release date for the purpose of treatment and rehabilitation. Parole is a means by which the naval service can ensure an offender receives and

participates or continues to participate in treatment and rehabilitation programs designed to help prevent re-offending. Parole also provides the offender with a daily routine that serves as an example of the law-abiding life style expected by the community/society. Decisions whether to release an offender on parole will be based on an evaluation that the offender has the potential for successfully returning to society and functioning as a responsible, self-reliant and law-abiding citizen. The objectives of parole, which the NC&PB will consider in determining the parole status of each offender eligible for parole are:

- a. A tool for correctional officers within naval brigs to use in motivating offenders toward constructive activities and responsible behavior;
- b. A means of alleviating residual sentencing;
- c. A source of hope for that group of offenders serving extremely long or life sentences;
- d. A post-release supervised assistance for offenders in their efforts to reintegrate themselves into society;
- i. A method of public protection through community surveillance that allows for removal of the parolee from the community should he or she violate the conditions of release; and
- j. A correctional tool used for those offenders where further confinement serves no further useful purpose, but supervised treatment and rehabilitation is required to lessen the potential for further irresponsible/criminal behavior.

503. Criteria for Parole Eligibility. An offender is eligible for release on parole when:

- a. The offender has an approved sentence that includes an unsuspended punitive separation, and
  - (1) the approved, unsuspended sentence or aggregate sentence to confinement is 12 months or more *and less than 30 years* and the offender has served one-third of the sentence to confinement, but not less than 6 months;
  - (2) the *approved, unsuspended* sentence includes confinement for more than 30 years *up to life and the offender has served at least 10 years; or*
  - (3) *the offender has been sentenced to confinement for life and has served at least 20 years of confinement. This applies only to those offenders in which any act with a finding of guilty occurred 30 days after 16 January 2000. For offenders whose offenses with a*



*finding of guilty occurred prior to that date, NC&PB consideration shall occur after the offender has served not more than 10 years from the confinement begin date and at least annually thereafter.*

*(4) An offender sentenced to life without parole is ineligible for parole, unless SECNAV officially commutes the life without parole sentence to a lesser sentence.*

*(5) An offender confined under a death sentence is ineligible for parole, unless the President officially commutes the death sentence to a lesser sentence.*

b. The offender requests parole.

c. With respect to an offender whose approved sentence includes confinement and a fine, and additional confinement for a specified period of time if the fine is not paid, parole eligibility will be based only on the basic term of confinement for the offender who willfully fails to pay the fine.

d. With respect to an offender whose finally approved sentence includes only a fine in addition to the punitive separation, but confinement has been properly ordered because the fine has not been paid, eligibility for parole shall be based on service of at least 6 months of the sentence to confinement and annually thereafter.

e. Offenders reconfined under parole revocation proceedings will not normally be eligible for reparole until 1 year from the date the prior period of parole was terminated by reconfinement by military or civil authorities. The NC&PB may review a reparole request earlier than 1 year on its own motion or in response to a recommendation of the commanding officer.

f. Parole Flow Chart/Matrix. Appendix F provides a visual depiction of the parole eligibility decision matrix. Nothing in Appendix F, however, should be construed as mandating actions or decisions not required within the main text of this instruction.

#### 504. Parole Eligibility Date

a. The parole eligibility date is the date at which the offender has served one-third of the sentence to confinement except:

(1) If the sentence includes less than 18 months but at least 12 months confinement, the parole eligibility date is the date on which the offender has served 6 months of the sentence to confinement.

(2) If the sentence includes 12 months or more of confinement, but less than 30 years, the parole eligibility date is the date on which the offender has served one-third of the term of confinement, but not less than 6 months.

(3) If the sentence includes more than 30 years confinement up to confinement *for life*, the parole eligibility date is the date on which the offender has served 10 years of the sentence to confinement.

(4) *If the sentence is confinement for life, the parole eligibility date is the date on which the offender has served 10 years of the sentence to confinement (if the finding of guilt occurred prior to 16 February 2000).*

(5) *If the sentence is confinement for life, the parole eligibility date is the date on which the offender has served 20 years of the sentence to confinement (if the finding of guilt occurred 30 days after 16 January 2000).*

b. Pretrial confinement and judicially ordered administrative pretrial confinement credits count for determination of an offender's parole eligibility date; periods of officially approved deferment or suspension of a sentence to confinement do not count toward establishment of the offender's parole eligibility date.

c. When exceptional circumstances exist or for other good cause, NC&PB/SECNAV may advance an offender's parole eligibility date, except for those ineligible for parole because they are confined under a death sentence.

d. Good conduct abatement and *earned time* abatement are excluded in computing eligibility for parole.

e. The parole eligibility date for a parolee returned to confinement as a parole violator will be no earlier than 12 months from the date of the parolee's return to military control.

#### 505. Procedures for Determining Status of Parole Requests

a. Prior to becoming eligible for parole, each offender should execute a *DD Form 2715-3* indicating whether parole consideration is or is not desired.

b. If the offender does not request parole and waives clemency review, the commanding officer will forward the Parole Statement without a post-trial progress report to the NC&PB within 30 days of the offender's parole eligibility date.

c. If the offender does not request parole and does not waive clemency review, the absence of a parole request may be noted in the post-trial progress report submitted for the annual clemency review. NC&PB will presume the offender does not request parole whenever it fails to receive a request for parole from the offender. *An entry shall also be placed on the DD Form 2715-3 in block 14 indicating parole is not requested and will be signed by the offender and a witnessing official.*

d. Completion of the Parole Statement is the means by which naval offenders notify the naval brig/NC&PB authorities of their present intent to request parole if or when they are parole eligible. Upon receipt of the Parole Statement that reflects an offender's intent to request parole, the naval brig will ensure the offender understands the requirements of an adequate parole plan.

e. Offenders requesting parole are responsible for their own parole plans. They will be encouraged to take the initiative in developing parole plans which fit their particular circumstances and meet their special needs, particularly plans that address individual and group therapy/counseling programs dealing with offenders whose convictions are the result of violent acts, particularly sex offenses, or substance abuse/dependency. If an element of a parole plan involves some cost, the offender must plan to pay the cost personally or arrange for funding from other sources; the Department of the Navy does not fund parole plans with the exception of VA inpatient alcohol/drug treatment prior to discharge.

f. To the extent practicable, the commanding officer will provide each eligible offender who intends to request parole with the necessary assistance to develop a satisfactory parole plan. Offenders with special problems may need extra assistance to incorporate outpatient therapy, inpatient treatment, halfway house programs, or other unique elements into their parole plans. Also, to the extent practicable, the commanding officer will verify the elements of the offender's parole plan, including the credentials/qualifications of the professional involved in any outpatient/inpatient programs. USPO's will not normally be asked to establish or verify elements of an offender's parole plan prior to approval of parole per this instruction.

506. Parole Requests. Eligible offenders who desire to request parole will submit their requests with adequate parole plans in accordance with the schedule set forth in paragraph 507. The parole request should include a statement from the offender to SECNAV requesting release from confinement under supervision of parole, reasons the request should be granted, and the offender's proposed plan for successful reintegrating into society if released on parole. An adequate parole plan should include, at a minimum, a valid tender of residence and an employment *plan submitted in accordance with paragraphs 506a, 506b, and 506c*. An offender should consult with his/her corrections counselor for suggestions as to other proposals that might be included, such as restitution plans, substance abuse treatment, and individual counseling/therapy that will assist the offender in dealing with problems identified as contributing to the commission of the offense(s) of which he/she was convicted or putting him/her at risk for re-offending.

a. Employment Requirement. Unless waived by NC&PB, the offender must submit satisfactory evidence that he/she will be engaged in a reputable business or occupation upon release from confinement or the

offender may not be released on parole. A valid tender of employment is not necessarily required for the parole package to be forwarded to and considered by the NC&PB. However, except for medically disabled offenders, a valid tender of employment is required to be forwarded via the naval brig chain of command to the President, NC&PB, for consideration and approval prior to the release on parole of the offender from the naval brig.

(1) A responsible prospective employer has executed a tender of employment; or,

(2) A recognized trade union or similar organization has stated that, subsequent to release on parole, the offender will be considered a member of the organization in good standing and that, through the normal functions of the organization, the offender will be afforded employment rights and assistance equal to that furnished other members in good standing.

(3) A reputable offenders' aid, welfare or employment organization has given assurance that it will assist the offender in obtaining employment after release on parole and will assure the parolee's livelihood until permanent employment is obtained.

(a) Because of the heavy burden already carried by offenders' aid organizations and similar agencies, the use of these agencies will be limited to those cases in which such action appears absolutely essential to a suitable release plan.

(b) The United States Employment Service and similar State agencies will not be considered in the same category as offenders' aid associations and other welfare organizations since such Federal and State employment agencies are not always in a position to obtain or offer assurance of employment for individuals prior to release from confinement and prior to a personal interview.

b. Waiver of Employment Requirement. The NC&PB may waive the employment requirement as a prerequisite for parole under any one or more of the following conditions:

(1) On-the-job training or schooling has been approved under the laws authorizing government-sponsored benefits.

(2) The parole plan includes evidence of adequate means of support and sufficient funds to pay living and education expenses and the offender requesting parole has been accepted by an accredited educational institution.

(3) The parole plan involves release on parole via 30 days inpatient treatment at a Veterans Administration Hospital.

(4) The parole plan involves long-term hospitalization, residential treatment or participation in a halfway house type program.

(5) In the judgment of the NC&PB, circumstances warrant release on parole before suitable employment is obtained.

(6) Adequate financial support exists for the offender without the offender being a financial burden on society or the offender's family and the offender will be involved in a worthwhile endeavor approved by the NC&PB.

*c. Prior to release on parole, the parole plan must be approved by an officer of the U.S. Probation Service.*

507. Schedule for Submission of Parole Requests

a. Offenders who are eligible for, and desire, parole may request parole up to 6 months before their parole eligibility date or any time thereafter.

b. Parole review hearing documents concerning initial parole requests, including endorsements, will be submitted to the NC&PB within 60 days of the submission of the parole request.

c. Parole review documents for second and subsequent NC&PB parole reviews shall be submitted in conjunction with submissions required for annual clemency review. (See paragraph 408.)

d. Submission of an offender's parole request will not be discontinued or delayed because the offender has not developed a satisfactory parole plan. In such instances, the tentative parole plan representing the best efforts of the offender will be used in processing the request for parole.

508. Procedures for Parole Hearing Before Disposition Board. The procedures for the parole hearing are:

a. The offender requesting parole will be given at least 30 days notice of the time, place and purpose of the hearing.

b. The offender requesting parole will have access to the information pertaining to his or her case, information which the disposition board or other agent of the NC&PB will consider. Such access will be conditioned upon the safety of persons whose statements or opinions are under consideration, the necessities of prison security, and the constraints set forth in paragraph 320.

c. The offender requesting parole is not entitled to a lawyer, but may be represented by another offender or member of the staff. The function of the representative is to offer a statement at the conclusion of the hearing and to provide additional information as may

be requested by the presiding officer, hearing officer, or other agent of the NC&PB. The Military Rules of Evidence do not apply; but the presiding officer, the hearing officer, or other agent of the NC&PB shall limit or exclude irrelevant or repetitious statements.

d. Each parole applicant is entitled to a personal hearing before an agent of the NC&PB. The disposition board of the brig or the USDB is authorized to function as that agent or the agent may be specifically designated by the NC&PB.

e. The Disposition Board will make recommendations for the grant or denial of parole and articulate with specificity the reasons for the recommendation.

f. If the Disposition Board recommends the NC&PB grant parole, it should also make recommendations, where appropriate, for any special conditions of parole it believes would assist the offender in his/her reintegration into the community and better ensure the protection of society.

509. Submission and Endorsement of Post-Trial Progress Reports for Parole Review of Offenders in Naval Brigs

a. When an offender confined in a naval brig requests parole, the commanding officer will:

(1) Forward a complete post-trial progress report, as required for clemency review per paragraph 409, attaching thereto the offender's parole statement. Special attention shall be given to the factors set forth in subparagraphs 409c(2), (3) and (6) as they relate to an assessment of the offender's potential for success on parole. Additionally, the psychiatrist, clinical psychologist or clinical social worker will summarize the impact of environmental factors on the offender with special emphasis on the environment to which the offender plans to return. Psychopathology and substance abuse or dependency of the offender (as well as *other individuals* who will be part of the parole plan) must be explored. Suggestions about possible conditions of parole (psychotherapy, etc.) must be made. Addenda, if appropriate, must be made for any requests for parole submitted subsequent to the initial request.

(2) Ensure information concerning an offender's marital status is correct. When divorce, common-law marriage, extramarital relationships, or problem relationships exist, clarify them and evaluate their impact on the parole plan.

(3) Ensure that the individual's citizenship is accurately reflected in the post-trial progress report.

*b. When considering an offender for release on parole or for mandatory supervision at MRD, NC&PB shall provide victims with an opportunity to provide information to the Board in advance of its*

determination if the victims have previously indicated on DD Form 2704 (or otherwise) an intent to be a participant in the process. Victim impact statements (or other documentation) will be submitted to NC&PB via the confinement facility, which has primary cognizance over matters pertaining to the federal victim and witness assistance program. Requests by victims or witnesses for personal appearances will also be forwarded to NC&PB via the appropriate confinement facility.

510. Schedule for Parole Review Hearing by the NC&PB

a. The NC&PB will consider initial parole requests within 30 days of the parole eligibility date or as soon as practicable after receipt of the request.

b. If an offender's initial request for parole is denied, subsequent requests for parole will be reviewed by the NC&PB within approximately 30 days of the anniversary of the clemency review eligibility date, except upon motion/recommendation of the commanding officer; the President, NC&PB; the NC&PB on its own motion; the Director, NCPB; or SECNAV. Normally, application of the exception should be reserved for instances in which newly discovered substantially relevant information would alter a previous recommendation or when the offender's potential for success on parole has improved significantly and the next regularly scheduled annual clemency review is too late for parole to be a viable option. (See paragraph 403h.)

c. Waiver of clemency review does not preclude submission of a request for parole.

511. NC&PB Action on Parole Requests. Upon receipt of an offender's request for parole and the post-trial progress report, the NC&PB shall review the offender's case file and all information relevant to the parole request, including the recommendations of the Disposition Board, the commanding officer and, as applicable, CMC or BUPERS. After consideration of the case file, the recommendations, policy and objectives for parole set forth within this instruction, the NC&PB will:

a. Grant or deny parole.

b. Recommend, where appropriate, that the Secretary grant or deny parole.

c. Set the date that the offender shall be released on parole.

d. Set the conditions of parole.

e. In unusual circumstances, advance or recommend the advancement of the parole eligibility date of an offender.

f. *Ensure that known and registered victims are notified of pertinent NC&PB parole actions by the victim/witness coordinator at each confinement facility, as required by references (o), (p) and (v).*

512. Factors for Parole Decision-Making. The NC&PB will consider the following non-inclusive factors in making a decision regarding an offender's request for parole:

- a. Nature and circumstances surrounding the offense(s).
- b. The approved sentence in relationship to the maximum imposable sentence and the sentences of other offenders *imposed* as a result of their commission of similar offenses under similar circumstances.
- c. Customary range of confinement before release.  
See Appendix C.
- d. Mitigating, extenuating and aggravating circumstances, pretrial and post-trial *matters*, including the current situation and events that have occurred since any previous hearing.
- e. Risk to public safety; i.e., the protection and welfare of society.
- f. Confinement record; e.g., attitude, performance, acceptance of status while in confinement, and motivation.
- g. Psychological profile, including age, education, marital and family status.
- h. Need for special counseling/therapy programs not offered by the naval brigs.
- i. Prior military and civilian history.
- j. Future plans and relevant conditions in the community in which the offender desires to reside on parole.
- k. Impact of the offense upon the victim.
- l. Good order and discipline within the Service.
- m. Offender's current status with law enforcement authorities, such as the presence of a detainer on an offender. The status of the offender as a foreign national does not automatically preclude parole.
- n. Other matters as appropriate.

513. Denial of Requests for Parole

a. Reasons for Denial. The NC&PB, or SECNAV (in those cases in which SECNAV has retained decisional authority), will provide an



offender who has been denied parole written notification of the denial. The NC&PB, or SECNAV, must set forth the reasons for denial of parole if the offender has served confinement that falls within, or more than, the customary release range as determined by the severity offense rating and the salient factor score (Appendix C). Such information shall normally be forwarded to the offender via the commanding officer. Upon receipt of the notification of parole denial, the offender will sign and date the notification of parole denial. Reason(s) for denial of parole include, but are not limited to:

(1) Release on parole at this time would depreciate the seriousness of the offense(s) and promote disrespect for the law.

(2) Due to the seriousness of the confining offense(s) and the short amount of time served on the sentence, a release on parole at this time would be premature.

(3) The retributive and deterrent portion of the sentence to confinement has not yet been served.

(4) Release would jeopardize the public welfare.

(5) Although the offender has reached his/her parole eligibility date, the nature of the confining offense(s) prevents release on parole because release would be premature in view of at least one of the following:

(a) Weapon was involved in the offense(s);

(b) Excessive force was involved in the offense(s);

(c) Lack of remorse;

(d) Denial of guilt if the offender initially pled guilty or confessed;

(e) Serious juvenile record;

(f) Rebellious, hostile, anti-social attitude in civilian or military confinement;

(g) *Refusal to participate in offense related treatment programs.*

(6) Parole would be premature in view of the offender's history of:

(a) Prior offenses (civilian or military);

(b) Crimes related to alcohol abuse;

(c) Crimes related to drug abuse;

(d) Assaultive behavior.

(7) Motivation/attitude towards confinement is poor, marginal or unsatisfactory as indicated by forfeiture of good conduct time; disciplinary reports; disciplinary and adjustment boards; unfavorable reports; lack of program involvement or other identified problems.

(8) Additional institutional treatment is required to enhance the offender's capacity to lead a law-abiding life such as:

(a) Participation in Alcoholics, Narcotics or Emotions Anonymous, et al;

(b) Participation in an alcohol, drug, or sex offender individual/group counseling/therapy program;

(c) Improve work performance;

(d) Other specified program.

(9) Parole plan was incomplete because it lacked assured residence, verified tender of employment (prior to NC&PB Board or prior to release from the confinement facility), individual/group therapy program treatment plan, or other specified requirement.

(10) Current custody level is inappropriate to be considered a good risk for parole because the offender was:

(a) Recently denied elevation of custody level;

(b) Recently elevated but needs further observation/evaluation prior to making an adequate assessment of parole potential.

(11) For decisions exceeding the lower limit of Category 8 severity offense rating by more than 48 months, the pertinent aggravating case factors considered are to be specified in the reasons given (e.g., homicide was premeditated; or committed during the course of another felony; or that extreme cruelty or brutality was demonstrated).

(12) Other specified reasons.

#### 514. Appeal of Denial of Parole Request

a. NC&PB Denial. Offenders denied parole by the NC&PB may file a written appeal of that decision to the Director, NCPB, 720 Kennon Street SE, Room 309, Washington Navy Yard, Washington, DC 20374-5023. The appeal must be submitted to the commanding officer within 30 days of receipt of written notification that parole has been denied. No documents are to be attached to the appeal unless the documents contain new information and materials not already in the possession of

the NC&PB. Commanding officers will promptly endorse (with recommendations) and forward all parole appeals directly to the Director, NCPB. The Director, with the advice of legal counsel, may, after review of the offender's appeal, the case file held by NC&PB, and the NC&PB decision, affirm, modify or reverse the decision or order a rehearing by the NC&PB. *However, parole appeals in cases requiring SECNAV decision per section 308b will be forwarded to SECNAV for final decision.* The Director's decision will be issued within 60 days of receipt of the appeal and is final. At his discretion, the Director may forward an appeal to SECNAV for final decision.

b. SECNAV Denial. Offenders denied parole by SECNAV have no right to appeal. A decision by SECNAV is final.

515. Report of Unsatisfactory Performance/Conduct - Parole Rescission Proceedings.

a. Unsatisfactory Performance/Conduct Defined. Conduct or performance on the part of an offender that is sufficiently serious to be made an adverse matter of the offender's official record is unsatisfactory, and if it becomes known after submission of the post-trial progress report or appeal of a denial of parole, but prior to release on parole or receipt of action on appeal of denial of parole, shall be the cause of action as follows:

(1) Report. The commanding officer will report the nature and circumstances surrounding the unsatisfactory performance/conduct to the President, NC&PB, immediately. The report will include, in as much detail as possible, the facts and circumstances of the offender's unsatisfactory performance/misconduct and a copy of any relevant report of investigation or other documents in support of the allegation of unsatisfactory performance/conduct. The report will include a recommendation for appropriate disposition of the offender's case. The offender shall be notified of the unsatisfactory performance/conduct and the recommendation of the commanding officer.

(2) If parole has not been previously directed, the offender may submit a written statement for forwarding to the President, NC&PB. The statement must be submitted within 5 days of the report of unsatisfactory performance/conduct submitted by the commanding officer.

(3) In reviewing the offender's request for parole, the NC&PB will consider all information relating to the unsatisfactory performance/conduct, including any written statement submitted by the offender, along with all other information in the offender's NC&PB file.

b. Withholding Release on Parole. If parole has been previously directed, but release has not yet been effected, upon receipt of facts sufficient to cause a report of unsatisfactory performance/conduct, the commanding officer shall withhold release pending the initiation of rescission proceedings and a final determination by the NC&PB.

c. Parole Rescission Proceedings. Upon receipt of information of unsatisfactory performance/conduct by the offender and NC&PB's determination that rescission of parole is not probable, NC&PB will direct the offender's release on the effective date of parole. If NC&PB determines that rescission is probable, rescission proceedings will be initiated. At these proceedings the offender has a right to a personal appearance hearing before a single examiner, normally an officer in the grade of 0-4 or higher or a civilian of equivalent grade, appointed by the commanding officer. The rescission proceedings include the following procedures:

(1) The offender will be provided written notice of the alleged unsatisfactory performance/conduct and his/her rights at the rescission proceedings at least 48 hours prior to the hearing.

(2) At the hearing, the offender has the right to present documentary evidence, including affidavits, from witnesses who cannot be present, as well as the right to call and cross-examine witnesses limited by consideration of the safety of persons appearing as witnesses, the necessities of prison security, the fact that such witnesses must be notified and secured by the offender at the offender's own expense, and the constraints of paragraph 320.

(3) The examiner will forward findings of fact, including evidence relied upon, directly to the President, NC&PB. The examiner will include one of the following recommendations: rescind the grant of parole; delay its effective date up to 90 days; or parole on the effective date.

(4) Upon taking final action to approve parole on the effective date, delay the effective date of parole or rescind parole, the NC&PB will inform the offender of the evidence relied upon and the reasons for the action in writing.

d. Parole rescission actions are final and not subject to appeal. The offender will be provided written notice of the final parole rescission action by NC&PB along with the reasons for the rescission.

516. Judicial Action Prior to Release on Parole. If the commanding officer is in receipt of a Certificate of Parole, but prior to releasing the offender on parole, the offender's convening authority action or sentence is set aside by the judicial review process, the commanding officer shall notify NC&PB which will then issue an action staying the offender's release on parole pending notification of the results of the action ordered by the appellate courts.

517. Parole Release Policy and Procedures. Upon receipt of a Certificate of Parole (DD Form 2716-1), the commanding officer will release the offender on the effective date of parole or as soon thereafter as all pre-release conditions have been completed. The conditions that must be completed prior to an offender's release on parole are:

a. Continued validity of the parole plan as approved by the *NC&PB* and the *USPO*. If the approved parole plan has undergone significant alterations prior to the offender's release on parole, the commanding officer shall not release an offender on parole until the *NC&PB* and *USPO* approve the altered parole plan.

b. Explanation of the conditions of parole to the offender by the commanding officer or designee.

c. Execution of a written agreement by the offender accepting and consenting to the specific conditions of parole. All copies of this agreement will be signed by the offender and witnessed by a *non-commissioned/commissioned* officer or civilian employee (GS-6 or above). The parole agreement consists of the parole letter, the Certificate of Parole, including the guidelines and conditions on the reverse side of the Certificate of Parole, and any addenda, if applicable.

d. Delivery to the offender of the accurately completed original Certificate of Parole and parole agreement and appellate self-executing leave orders effective the date of the offender's release from parole due to expiration of the offender's term of confinement, including execution of required signatures and insertion of correct release date. (If an original Certificate of Parole and parole agreement has not been received on the date the offender has been directed to be released on parole, the commanding officer will notify the President, *NC&PB*, who will send a signed facsimile copy of the parole agreement to the commanding officer who will then photocopy the facsimile documents. The photocopies will then be stamped ORIGINAL and parole release procedures continued.) The appellate leave orders will instruct the offender on how to obtain/retain a valid Armed Forces Identification Card (AFIC) if the offender has not been discharged from the naval service; i.e., in receipt of a DD 214.

e. Take front and side view identification photographs of the offender and furnish by a letter of transmittal a copy of the photographs along with signed copies of the Certificate of Parole and parole agreement to the *USPO*, to *BUPERS (PERS-84)* in the case of Navy and Coast Guard parolees, and to CMC (*PSL Corrections*) in the case of Marine Corps parolees.

f. Distribute copies of the Certificate of Parole and, if appropriate, the parole agreement in accordance with instructions appearing at the bottom of the certificate.

g. If appellate review under Article 71©, UCMJ, has been completed, execute and deliver a discharge certificate to the offender at the time of release on parole.

h. If appellate review has not been completed, ensure that the offender possesses an AFIC, completed to show rank and expiration date at least 3 months subsequent to the parole release date. The AFIC

shall be over stamped Military Parole. Identification cards for dependents will bear the same expiration date and notation. Instruct offenders that if the expiration date of their AFIC occurs before appellate review of their case has been completed, they may apply for a new AFIC at the nearest military installation, reserve unit, or recruiter. Replacement AFIC shall bear the same notation as the first and an expiration date 3 months subsequent to the date of issue.

i. Instruct offenders to return all AFICs through the USPO upon completion of appellate review, if appellate review is completed and they are discharged prior to their release from parole due to the expiration of their full term of their sentence to confinement.

j. Coordinate with Navy and Marine Corps Appellate Leave Activity (NAMALA) to ensure preparation of the documents necessary to place the offender on appellate leave if appellate review has not been completed but the full term of the offender's sentence to confinement has been completed, as well as initiate documents necessary to discharge the offender when appellate review is complete. (See paragraph 521.)

(1) *Original service/health records of parolees will be forwarded to and maintained by NAMALA.*

(2) *If appellate review has been completed and the punitive discharge/dismissal executed, original service/health records of parolees will be maintained at NAMALA until full term expiration date, at which time the records will be retired under service directives.*

(3) *If sentence to confinement of the parolee is completed due to the expiration of the full term of the sentence prior to completion of appellate review, NAMALA will maintain original service/health records until completion of appellate review, at which time the records will be retired under service directives.*

(4) *Original service/health records of offenders transferred to the FBOP will be forwarded by naval brigs/USDB to NAMALA and maintained by NAMALA.*

(a) *Duplicate copies of the original service/health records will be provided to the FBOP concurrent with the transfer of the offender from the naval brig to the FBOP.*

k. Ensure that the offender has the address of the uniformed services medical treatment facility closest to the offender's parole destination if the offender has not been discharged or dismissed at the time of release on parole.

l. Ensure that an FBI Form I-12 (Wanted-Flash-Cancellation Notice) is prepared on each offender released on parole or supervised release. This form provides a uniform means of filing requests with the FBI to

ensure notice to the commanding officer of the arrest of an offender on parole by an apprehending officer who files *fingerprints* with the FBI. The form will be annotated to indicate that the commanding officer, the NC&PB and the supervising *USPO* are to be notified of any arrests reported to the FBI. Box 2 "Flash" of the form will be checked and all available information requested on the form for filing a flash notice will be provided. The form will be forwarded directly to the U.S. Department of Justice, Federal Bureau of Investigation (ATTN: Identification Division), Washington, DC 20537.

m. Ensure that the offender is given a medical examination as prescribed by BUMED instructions prior to release on *appellate leave*, parole or *supervised release*. If a separation-type physical has been accomplished previously, the offender's health record will be reviewed by a medical officer assigned or attached to the medical treatment facility rendering primary medical care to the brig and the medical officer will accomplish a physical inspection of the offender to assure the absence of communicable disease. Medical officers will advise the commanding officer, in writing, of their findings and recommendations.

n. Require the submission of a urine sample for each offender prior to release on parole or *supervised release* for analysis in accordance with pertinent Navy or Marine Corps directives, as a service-directed urinalysis. (The commanding officer will determine whether Navy or Marine Corps regulations apply.) The sample will be collected as shortly before the offender departs as practicable and will be analyzed before the end of the third week of parole or *supervised release*. A positive result will be reported to the President, NC&PB, by the most expeditious means available.

o. Furnish the offenders released on parole with transportation to their parole destinations per Joint Travel Regulations.

p. Provide the OEGCMJ with the offender's date of release from confinement on parole, the date parole expires, and the offender's address while on parole.

q. *Ensure* known victims are informed, as required by reference (s).

r. *Supervised Releasees*

(1) *If appellate review has not been completed, the member will be retained on appellate leave under service directives and the original service/health records will be forwarded to NAMALA.*

(2) *The member will be instructed to return all Armed Forces Identification Cards (AFICs) through the USPO upon completion of appellate review and discharge.*

(3) *Once the member's discharge has been executed, original service/health records of supervised releasees will be held at NAMALA*

*until Full Term Date (FTD), at which time the records will be retired under service directives.*

518. Supervision of Parolees

a. The NC&PB coordinates with appropriate authorities within the U.S. Probation Office, requests its assistance to investigate parole program plans, and oversees the supervision of offenders paroled under the provisions of this instruction.

b. If NC&PB directs the release of an offender on parole under the supervision of a *USPO*, the parolee must meet the conditions of parole set forth in the Certificate of Parole and parole agreement as well as any reasonable requirements directed by the *USPO*.

c. All communications to the parolee will be addressed to or through the *USPO* supervising the parolee, or other designee of the NC&PB.

d. The *USPO* may authorize temporary (up to 20 days) leave for travel outside established parole limits and within the continental United States. The *USPO* may extend or further restrict parole limits as required for the adjustment and supervision of the parolee, but must advise the NC&PB of such action. Requests for travel outside United States territory must be submitted to the NC&PB for decision in advance of the proposed travel date.

519. Conditions of Parole. Before the commanding officer releases an offender on parole granted under the provisions of this instruction, the offender must, in writing, waive all good conduct and extra good time earned through the date of his/her release on parole and agree to abide by the conditions of parole set by the NC&PB. The general conditions of parole are:

a. The parolee shall report directly to the *USPO* whose name appears on the Parole Certificate within 24 hours after arrival at the principal place of parole. If, in any emergency, the parolee is unable to get in touch with the *USPO* or the U.S. Probation Office, the parolee shall communicate with the commanding officer of the naval brig from which he/she was released or the Parole Management Unit, NC&PB (for this purpose, collect calls to NC&PB are authorized).

b. The parolee will remain within the limits indicated by the Certificate of Parole unless permitted to leave the limits by written permission of the *USPO*.

c. The parolee will not change residence or employment without prior permission of the *USPO* or the NC&PB.

d. The parolee will promptly and truthfully answer all inquiries directed by SECNAV, NC&PB, his/her *USPO*, and other military or civilian authorities.



e. The parolee will immediately inform the NC&PB of the refusal or inability of the *USPO* to act as *USPO* and request appointment of another probation officer.

f. The parolee will not associate with persons of bad or questionable reputation, particularly persons with a criminal record, unless permission of the *USPO* is obtained.

g. The parolee will conduct himself/herself honorably, work diligently at a lawful occupation, and support his/her dependents to the best of the parolee's ability.

h. The parolee will live at liberty without violating the law.

i. The parolee will not drink alcoholic beverages to excess; nor will the parolee purchase, possess, use or administer marijuana or narcotic or other habit-forming or dangerous drugs, unless prescribed or advised by a physician; nor will the parolee frequent places where such drugs are illegally sold, dispensed, used or given away.

j. The parolee will perform community service in an hourly amount specified by NC&PB. Performance of community service beyond the hours assigned as a parole condition or early completion of the assigned hours will be considered in a positive manner by the NC&PB during its annual clemency review of the offender's case.

k. The parolee will abide by any other conditions set by the *USPO*, including but not limited to: reporting to state or local authorities as required by State or Federal law, refraining from possessing firearms or other dangerous weapons, etc.

l. The parolee will submit to searches of his/her person, as required by the *USPO*.

m. The parolee will authorize the release of his/her military records by the NC&PB or the *USPO*.

n. The parolee will participate in the required drug-screening program established by the *USPO*.

o. The parolee will abide by any other special conditions contained in addenda to the parole agreement, which may be issued by the NC&PB. Special conditions of parole may include, but are not limited to:

(1) The parolee shall not enter into any agreement to act as an informer or special agent for any law enforcement officer.

(2) The parolee found alcohol or drug dependent by NC&PB shall participate in an alcohol or drug treatment program which may include scheduled and unscheduled testing and examination to determine if the parolee has reverted to alcohol or drug usage.

(3) The parolee convicted of sex offenses or serious violent offenses, or parolees with serious mental or emotional problems will participate in inpatient or outpatient mental health programs as directed by NC&PB or the USPO.

(4) The parolee shall reside, and participate, in a halfway house program, as instructed, until discharged by the USPO or the NC&PB.

(5) The parolee shall establish, when appropriate, a payment plan by which fines are paid and restitution accomplished.

520. Clemency Consideration of Parolees

a. Parolees are eligible for annual clemency review. The NC&PB will obtain a report of the parolee's conduct from the USPO prior to conducting the annual clemency review. The provisions of this instruction regarding annual clemency review apply to the annual clemency review of parolee cases. Clemency requests from parolees are not required; however, a parolee may submit any matters pertinent to a clemency review.

b. The NC&PB will inform the parolee, in writing, via the USPO, of the results of the clemency review, indicating the new termination date of parole supervision in the event the sentence to confinement is reduced. The NC&PB will also inform the commanding officer and the OEGCMJ of the results of the annual clemency review.

521. Change in Status. *This paragraph applies to cases in which a punitive discharge or dismissal was adjudged and parole or supervised release commenced prior to completion of appellate review.*

a. If the sentence to confinement of the parolee expires prior to completion of appellate review, the commanding officer responsible for the administration of the parolee's service records will:

(1) Issue the appellate leave papers prepared at the time of release on parole and direct the member to report to the nearest military installation, reserve unit, or recruiter to surrender the AFIC annotated "Military Parole" and obtain an appropriate replacement card that denotes "Appellate Leave" status.

(2) Order the individual to an appropriate unit, if required. The individual may report in an appellate leave status provided such leave is granted under procedures established by the CMC or BUPERS, as appropriate.

(3) Furnish the individual with instructions and any other information deemed pertinent to establish clearly the individual's status and obligations.

(4) Advise the individual of the address of the commanding officer of the unit to which the individual is assigned.

b. *If appellate review is completed and the parolee's or supervised releasee's discharge is ordered executed before the term of confinement has expired, the commanding officer responsible for administration of the parolee's or supervised releasee's service records will:*

(1) *Confirm that the most recent medical examination satisfied the requirements prescribed by BUMED to discharge the parolee or supervised releasee or obtain a current medical examination as prescribed by BUMED instructions.*

(2) *Process the separation documents, including a Certificate of Release or Discharge from Active Duty (DD Form 214).*

(3) *Furnish the individual with instructions regarding the change in status and require return of the AFIC marked "Military Parole" or "Appellate Leave" which was furnished for use pending completion of appellate review.*

#### 522. Termination of Parole

a. By Expiration of the Term of Confinement (Completion of Sentence). Parolees complete parole and are released from supervision at the expiration of the full term or aggregate term of their sentence to confinement.

b. By Suspension. Suspension of parole interrupts the sentence, unless the parolee is reconfined. A parolee who is not confined during a suspension of parole is not entitled to confinement credit for the period of the suspension; however, the NC&PB may authorize full or partial credit retroactively when it either revokes parole or rescinds the suspension and reinstates parole. Suspension of parole for a parolee who is permitted to remain at large shall not relieve the parolee of the requirements to abide by the conditions of parole.

c. By Revocation. The NC&PB may revoke parole if the parolee's behavior warrants return to confinement and the necessary due process rights are afforded to the parolee during the revocation process. (See Part VI.) In appropriate circumstances and upon the request of the parolee, the NC&PB may defer executing the revocation for a period of time normally not exceeding 1 year. If, during the period of this deferment, the parolee commits any further violations of a condition of parole, the NC&PB may cancel the deferment, execute the revocation, and reconfine the parolee upon notice to the parolee and without further proceedings. Parolees who have not been reconfined pending parole revocation proceedings will, within 24 hours of receiving notification of the revocation of their parole from their USPO, return to the naval brig from which paroled or to another naval brig designated by the NC&PB. Transportation costs will be borne by the parolee. Parolees who fail to report within 24 hours become subject to apprehension as escapees and prosecution under the UCMJ.

d. By Judicial Action. Because parole is a conditional release from an approved sentence to confinement, the setting aside of a convening authority action or the sentence under judicial review nullifies the existence of the approved sentence to confinement and thus nullifies the basis of parole. In such a circumstance, the OEGCMJ or the NC&PB will notify the offender in writing through the offender's *USPO* that his/her parole is being held in abeyance and that orders will be forthcoming from proper authorities. Transportation costs incident to the parolee's return to duty will be borne by the United States. Parolees who fail to follow the orders of those proper authorities are subject to apprehension and prosecution under the UCMJ.

PART VI

PAROLE REVOCATION POLICY AND PROCEDURES

601. Jurisdiction. Parolees remain under the jurisdiction of the SECNAV(NC&PB), the OEGCMJ and commanding officer of the offender at the time the offender was paroled from the naval brig, or such other OEGCMJ as may be designated by proper authority (CMC or BUPERS), until the expiration of the full term of the sentence to confinement without credit for good time (abatement) or extra good time allowance.

602. Termination or Suspension of Parole

a. Upon receipt of information from the offender's USPO that reason exists to believe that conditions of parole have been materially violated by the offender, the NC&PB will determine whether parole should be terminated or suspended. The decision to terminate or suspend will be based upon written information expeditiously transmitted to the NC&PB that relates the circumstances surrounding the alleged violation(s).

b. Upon receipt of information that alleges that conditions of parole have been materially violated by a parolee, the NC&PB shall promptly notify the parolee of the alleged violation(s) of parole, suspend parole and initiate parole violation proceedings if it believes that the conditions of parole probably have been materially violated. If suspension of parole is ordered and if the NC&PB determines that it is necessary to assure the presence of the parolee, to protect the offender, or to ensure the public safety pending determination of the parolee's status, it will authorize the issuance of a warrant (*standard form drafted\authorized by BUPERS (PERS-84) with CMC (PSL Corrections) input*) and direct appropriate authorities to initiate action to have the warrant executed and the parolee taken into military custody if the offender is not already being held by Federal, State, local or military authorities. A copy of any warrant will be sent to the parolee's USPO and the naval brig from which the parolee was released on parole and/or was ordered to return upon suspension.

c. *Registered victims will be kept informed by the Parole Management Sections at the USDB or other pertinent naval brig of the offender's status (e.g., parole violation hearing; offender's parole terminated, suspended, modified, reinstituted, etc.), as required by reference (s). Additionally, registered victims will be similarly apprised of the status of supervised releasees.*

603. Preliminary Interview

a. Purpose of the Preliminary Interview. The primary purpose of the preliminary interview is for the officer conducting the preliminary interview to obtain verified facts to determine:

(1) Whether or not probable cause exists to believe that the conditions of parole have been violated (conviction of a Federal, State or local crime subsequent to release on parole and for which confinement is authorized punishment will constitute probable cause that the parolee has violated a condition of parole);

(2) Whether or not a parole violation hearing should be conducted; and

(3) Whether or not the alleged parole violator should be confined pending the final decision to revoke or continue parole.

b. Officer Conducting Preliminary Interview. The preliminary interview will be conducted by a *USPO* other than the one initially assigned to the alleged parole violator's case. Effort should be made to conduct the preliminary interview as soon as reasonably possible following receipt of the order to suspend parole. The *USPO* will:

(1) Prior to conducting the preliminary interview, advise the parolee of the parole violations that have been alleged and of the parolee's right to a preliminary interview and the parolee's rights at that interview.

(2) Advise the parolee of his/her rights to waive (in writing) a preliminary interview and elect a parole violation hearing.

(3) If the parolee requests a parole violator's preliminary interview, advise the parolee of the time, place and purpose of the preliminary interview.

c. Postponements. The *USPO* conducting the preliminary interview may postpone the preliminary interview for a period up to 30 days if the parolee requests postponement to arrange for counsel and/or witnesses to appear at the interview. Requests by a parolee for postponement of a preliminary interview beyond 30 days will not be granted except at the discretion of the President, NC&PB.

d. Rights of Parolee at Preliminary Interview. Parolees have the following rights at a preliminary interview:

(1) To appear personally and speak on their own behalf, present letters and documents, and call individuals to testify about relevant information. In all cases, such individuals must be notified and secured by the parolee at the parolee's own expense.

(2) To confront and examine, on request of the parolee, persons who have given adverse information on which parole revocation may be based. Those persons are to be made available, at the parolee's expense, for questioning in the parolee's presence, unless it is determined by the officer conducting the preliminary interview

that such persons would be subject to risk of harm if their identities were disclosed or the officer conducting the preliminary interview specifically finds good cause to deny confrontation and examination of these witnesses.

(3) To be represented at the preliminary interview by an attorney or by any other personal representative of the parolee's choice at no expense to the Government. The role of the parolee's personal representative is limited to the examination of witnesses, presentation of evidence and the offering of a statement on the parolee's behalf with regard to whether parole should be revoked. The parolee's personal representative is not permitted to enter objections or challenges, though such objections and challenges may be submitted in writing to the officer conducting the preliminary interview for attachment to the report of the preliminary interview.

(4) A preliminary interview is not required for a parolee who, subsequent to release on parole, has *absconded, pled guilty and/or* been convicted of a felony by Federal, State, or local authorities, unless otherwise directed by the NC&PB. When such a conviction is the basis of the probable cause finding, the USPO will forward to the NC&PB information regarding the offense and conviction including certified copies of the conviction, and recommendations regarding revocation of parole.

e. Recommendations. The officer conducting the preliminary interview will make one of the following recommendations:

(1) Probable cause does or does not exist to believe that the parolee violated the condition(s) of parole;

(2) A parole violation hearing should or should not be held;  
and

(3) The parolee should or should not be confined pending the outcome of the parole violation hearing.

f. Report of the Officer Conducting the Preliminary Review. Upon completion of the preliminary interview, the officer conducting the preliminary interview will prepare a written report, including a written summary of the interview with recommendations and supporting reasons concerning the revocation of parole. The report and recommendations of the officer conducting the preliminary interview will be forwarded to the President, NC&PB.

g. President, NC&PB, Review. The President, NC&PB, acting for the NC&PB, will review the report and recommendations of the officer who conducted the preliminary interview or the nature and circumstances of the conviction, which obviated the requirement for a preliminary interview, and any other relevant matters. If the President finds that probable cause exists to believe that the parolee violated a condition of parole, the President will direct that a parole violation

hearing be held. If the President finds that probable cause does not exist to believe that the parolee violated a condition of parole, the President will return the parolee to the original parole status. The President, NC&PB, will notify the parolee promptly of the decision regarding probable cause. If the President finds probable cause, he/she will also notify the parolee of the charge(s) upon which probable cause was found and the evidence relied upon. The President, NC&PB, will inform the NC&PB members of any probable cause decision at the next regularly scheduled hearing. By majority vote, the NC&PB may overrule the President's finding.

h. Release Notwithstanding Probable Cause. If the NC&PB finds probable cause to believe that the parolee has violated the conditions of release, reinstatement to supervision or release pending further proceedings may, nonetheless, be ordered if it is determined that:

(1) Continuation of parole *violation* proceedings is not warranted despite the violations found; or

(2) Incarceration pending further parole *violation* proceedings is not warranted by the alleged frequency or seriousness of such violation or violations;

(3) The parolee is not likely to fail to appear for further proceedings; and

(4) The parolee does not constitute a danger to himself/herself or others.

604. Parole Violation Hearing. The purpose of the parole *violation* hearing is to determine whether the parolee has materially violated the condition(s) of parole, and, if so, whether parole should be revoked. If the President, NC&PB, finds that probable cause exists to believe that a parolee has violated a condition of parole:

a. Unless the parole *violation* hearing is waived in writing, by the parolee, the President, NC&PB, shall order a hearing and notify the parolee of the time, date and location of the hearing. The location of the hearing will normally be determined as follows:

(1) If the parolee has not been convicted of a crime while on parole, is not in the custody of Federal, State or local authorities for an alleged crime committed while on parole and is not in the custody of military authorities under order of the NC&PB, the parole *violation* hearing will *normally* be conducted near the place of the alleged violation (or one of the violations if more than one), unless the parolee *consents* or requests return to the naval brig from which the parolee was paroled or return to another naval brig designated by NC&PB, in which case, the hearing will be held in that institution.

(2) If the parolee admits a violation of the parole agreement and is not being held by Federal, State or local authorities for a



crime committed or allegedly committed while on parole, the NC&PB may order the parolee returned for the parole *violation* hearing to the naval brig from which paroled or such other naval brig/place as may be designated by proper authority or the hearing may be held in close proximity to the location of the violation (or one of the violations, if more than one).

(3) If the parolee is in the custody of Federal, State or local authorities for committing or allegedly committing a crime while on parole, the parole *violation* hearing may be conducted in the area of custody to which the parolee is restricted, or the parolee may, upon termination of custody imposed by Federal, State or local authorities, be returned for the hearing to the naval brig from which the parolee was paroled or such other naval brig/place as may be designated by proper authority providing that undue delay does not result from that custody period.

b. The President, NC&PB, shall appoint a neutral and detached hearing officer to conduct the parole *violation* hearing. The hearing officer will be an officer (O-3 or O-4) or civilian (GS-11 or 12) assigned to a naval brig who is acquainted with the corrections or parole programs within the Department of the Navy.

(1) Exceptions to this rank/grade requirement must be approved in writing by the President, NC&PB.

(2) If the correctional facility is unable to provide a neutral/detached hearing officer, then the Naval Trial Services Office or Marine Corps Staff Judge Advocate Office closest to the correctional facility where the hearing is scheduled to convene will provide a Judge Advocate (O-3 or O-4) as the hearing officer at the request of the President, NC&PB.

c. The parolee will be given written notice of the finding of probable cause, the nature of the alleged violation, his/her rights to a parole *violation* hearing, the purpose of a parole *violation* hearing, the evidence upon which the parole *violation* hearing is based and the options available to NC&PB.

d. The parolee has the following rights at the parole *violation* hearing:

(1) The opportunity to review all evidence pertaining to the alleged violation, unless the hearing officer specifically finds good cause to deny access. The disclosure of the evidence upon which the parole *violation* hearing is based must be made at least 10 days prior to the parole *violation* hearing.

(2) The opportunity to be heard in person. The parolee may waive a personal appearance at a parole *violation* hearing.

The parolee may submit a statement in writing for consideration by the hearing officer notwithstanding the waiver of personal appearance.

(3) The opportunity to confront and to cross-examine adverse witnesses, unless the hearing officer specifically finds good cause to deny confrontation and cross-examination of the witnesses.

(4) The opportunity to present voluntary witnesses and documentary evidence in the parolee's own behalf. A parolee's request for witnesses will be made prior to the hearing and will be subject to the approval of the hearing officer. The hearing officer need not delay the parole violation hearing if a witness requested by the parolee declines to appear or fails to appear at the hearing. The hearing officer may limit or exclude any irrelevant or repetitious witness. The attendance of witnesses on behalf of the parolee is voluntary and will be at no expense to the Government.

(5) The opportunity to be represented by a personal representative, including civilian counsel provided at the parolee's own expense or, upon written request of the parolee, detailed military counsel. The parolee has no right to a military attorney of the parolee's choice. Local military counsel, including Reserve judge advocates, may represent the alleged parole violator. Otherwise such counsel shall be provided by the Naval Legal Service Office or Marine Corps Staff Judge Advocate Office of the command closest to the naval brig or locale where the hearing is scheduled to convene. The role of the parolee's representative will be limited to the examination of witnesses, presentation of evidence and the offering of a statement on the parolee's behalf with regard to whether parole should be revoked. During the hearing, the parolee's representative will not be permitted to enter objections or challenges. Objections or challenges may be submitted in writing to the hearing officer for attachment to the hearing record. The hearing officer may deny, for good cause, a parolee's choice of a non-attorney representative.

e. Formal rules of evidence (i.e., Military Rules of Evidence) do not apply at the hearing, but the officer presiding at the parole violation hearing may limit or include/exclude any statement or documentary evidence that is irrelevant or repetitious.

f. The officer conducting the parole violation hearing shall prepare a summary of proceedings, which will include a summary of the evidence relied upon and the reasons underlying the recommendations regarding revocation of parole. (Note: The reasons for revocation must be consistent with the alleged violation(s) that were contained within the written notification to the parolee.) If the NC&PB finds the reasons provided by the officer who conducted the parole violation hearing are not consistent with the alleged violations and NC&PB itself cannot find reasons supported by the facts consistent with the allegations of which the parolee was notified, revocation of parole is inappropriate and should not be ordered. Further proceedings, subsequent to parolee notification, may be appropriate.

g. The standard for determining that a condition of parole has been materially violated is a *preponderance of the evidence*.

h. Parole violation hearings will be conducted at the times, places and by the agencies or individuals designated by the President, NC&PB, and in accordance with current statutory, regulatory and judicial precedent.

605. Report of Parole Violation Hearing Officer. The officer appointed to conduct the parole violation hearing will prepare a report of proceedings, including a summarized transcript of the parole violation hearing, all documentary evidence and allied papers considered, and forward it with recommendations concerning revocation of parole to the President, NC&PB. A copy of the report will be provided to the parolee and the parolee's personal representative.

606. NC&PB Options Concerning Continuation of Parole Status. Upon review of the report and recommendation of the officer who conducted the parole violation hearing, the NC&PB has the following options:

a. Revoke parole. A parolee whose parole is revoked will receive credit for time spent on parole except as follows:

(1) If the parolee has been convicted of a new offense committed after being released on parole, which is punishable by a term of confinement, the NC&PB may order forfeiture of the time from the date of parole release to the date parole is suspended. An actual term of confinement need not have been imposed. If a conviction occurs following a parole violation hearing, the NC&PB may reconsider the forfeiture of time served on parole or other disposition, as appropriate.

(2) If the NC&PB finds that a parolee intentionally refused or failed to respond to any reasonable request, order, or summons of the NC&PB or any agent thereof, including the offender's supervising USPO, it may order the forfeiture of credit for time served for the amount of time during which the parolee so refused to respond.

(3) If the NC&PB finds that a parolee was not in material compliance with the conditions of parole, the NC&PB may order the forfeiture of credit for time served during which the parolee was in material noncompliance.

b. Revoke parole and re-parole the violator.

c. Reinstate the parolee to the original parole status, to include removal of any detainer placed against the parolee as a result of the alleged violation. Reinstatement of parole following its suspension or following revocation proceedings shall, at the discretion of the NC&PB, be made:

(1) Effective the date of the reinstatement decision; or

(2) Retroactively effective to any date in the suspension period, provided the NC&PB concludes that the parolee should be given full or partial confinement credit for the period of suspension. A retroactive effective date shall reflect day-for-day credit for that part of the suspension period for which the NC&PB finds confinement credit is justified.

d. Reprimand the parolee in writing. The written reprimand will be placed in the parolee's clemency and parole records.

e. Modify the original conditions of parole.

f. Revoke parole solely upon a determination that a parolee has materially violated a condition of parole by failure to pay a fine or make restitution, only if it finds one of the following conditions exists:

(1) The parolee has willfully refused to pay the fine or make restitution when the parolee has sufficient resources to pay.

(2) The parolee has failed to make a sufficient bona fide effort to obtain employment, borrow money or legally acquire sufficient funds with which to pay the fine or make restitution.

(3) If the parolee cannot pay the fine or make restitution, despite sufficient bona fide efforts to do so, parole may be revoked only if no alternative disposition exists that will adequately serve the need for good order and discipline within the naval service and the correctional treatment of the parolee.

g. Determine credit for service of sentence on parole. An offender whose parole is revoked shall receive credit for time spent on parole except as follows:

(1) If the parolee has been convicted of a new offense committed after being released on parole, which is punishable by a term of confinement, forfeiture of the time from the date of release to the date of suspension or revocation of that parole as a result of that new offense may be ordered by the NC&PB and such forfeited time shall not be credited to service of the sentence. An actual term of confinement need not have been imposed for such conviction if the statute under which the parolee was convicted permits the trial court to impose any term of confinement. If such conviction occurs subsequent to a parole violation hearing, the NC&PB may reconsider the forfeiture of time served on parole or other disposition, as appropriate.

(2) If the NC&PB finds that a parolee intentionally refused or failed to respond to any reasonable request, order, or summons of the

NC&PB or any agent thereof, including the assigned *USPO*, or if the NC&PB finds that the parolee was not materially in compliance with the conditions of parole, the NC&PB may order the forfeiture of time during which the parolee so refused or failed to respond or comply.

607. NC&PB Decision and Action Concerning Continuation of Parole Status

a. Upon the majority of the NC&PB finding by a *preponderance of the evidence* that the parolee materially violated at least one condition of parole, the NC&PB will decide which one of the options set forth in paragraph 606 is most appropriate.

b. The decision of the NC&PB is final and not subject to appeal.

c. The NC&PB will provide the parolee with a copy of the parole violation proceedings, including the decision of the NC&PB, and advise the offender of his/her next clemency review eligibility date, and ensure known victims are informed, as required by reference (p). If parole is revoked, the notice will state the reasons for revocation and advise the offender of his/her parole eligibility date.

d. Upon NC&PB's decision to revoke parole, the NC&PB will initiate action to have the parolee returned to military custody, if the parolee is not already in such custody.

(1) If parole is revoked and the parolee is confined in a civilian institution, the NC&PB will request CMC (*PSL Corrections*) or BUPERS (PERS-84), as appropriate, to lodge a detainer with civil authorities if such detainer has not already been lodged.

(2) If parole has been revoked and the parolee is not confined in a civilian institution, the NC&PB will initiate action with CMC (*PSL Corrections*) or BUPERS (PERS-84), as appropriate, to have the parolee returned to the naval brig from which he/she was paroled or such other facility as may be designated by NC&PB or proper authority.

e. Upon NC&PB's decision to reinstate parole or reparole, the NC&PB will initiate action to notify proper authorities of the decision and have the President, NC&PB, execute a new Certificate of Parole indicating reinstatement on parole with the new full term date, if the parolee's full term date was adjusted by the NC&PB because it did not give the parolee full credit for time served for the period of suspension while awaiting the parole violation hearing.

608. Other Actions Relating to Continuation of Parole Status

a. *Original personnel records (service/health records) and allied papers of parolees reconfined in naval brigs following revocation of parole will be transferred from NAMALA to the pertinent confining*

naval brig. NAMALA will retain duplicate original copies of personnel records (service/health records) and allied papers of parolees who are reconfined.

b. Original personnel records (service/health records) and allied papers of parolees whose whereabouts remain unknown for 90 days after suspension of parole or parolees who abscond will continue to be maintained at NAMALA.

c. Original personnel records (service/health records) and allied papers of parolees reconfined in FBOP facilities following revocation of parole will be transferred from NAMALA to the pertinent confining FBOP facility. NAMALA will retain duplicate original copies of personnel records (service/health records) and allied papers of parolees who are reconfined.

d. A parolee at large, whose parole has been terminated or whose parole has been suspended or revoked (except those suspended without direction to take the parolee into custody), will be considered the same as an escaped military offender whose return to military control is desired. Regulations pertaining to apprehension and return to military control of escaped military offenders will apply. "Flash" wanted notices will be filed with the FBI (FBI Form 1-12).

e. In the absence of substantial mitigating circumstances, the unexpired term of confinement of a parolee convicted of a new offense subsequent to release on parole shall run consecutively to any term of confinement imposed for the new offense.

f. Upon notification that an offender transferred to the FBOP and paroled by the U.S. Parole Commission has absconded on parole, the NC&PB will ensure that CMC (PSL Corrections) or BUPERS (PERS-84), as appropriate, are informed and that proper action has been taken to ensure the offender's return to the FBOP or military custody, and that known victims are informed, as required by reference (p).

PART VII

SUPERVISED RELEASE OF OFFENDERS AT  
THEIR MINIMUM RELEASE DATE (MRD)

701. Release of Offenders at Their MRD to Mandatory Supervision. The supervised release (as if on parole) of offenders who are not granted parole prior to their MRD is a highly effective technique to provide an orderly transition to civilian life for released offenders and to better protect the communities into which such offenders are released. Accordingly, it shall be the policy of the NC&PB to use supervised release in all cases except where it is determined by the NC&PB to be inappropriate. An example of where supervised release is inappropriate is in cases where there are 180 days or less remaining between an offender's MRD and the offender's full term date (FTD).

702. Release Plan Review. Military confinement facilities will submit the offender's release plan and all other relevant information on cases approaching MRD to the NC&PB. Military confinement facilities will provide timely and advance notice to all those victims and witnesses indicating a desire to be so notified. Responses by victims and witnesses will be forwarded with the release plan to the NC&PB. The offender's release plan and all other relevant information shall be provided to the NC&PB as part of the offender's last annual review prior to the offender's MRD (approximately 9-15 months prior to MRD). In no event shall the release plan and relevant information be provided to the NC&PB less than 4 months prior to MRD. The offender's written release plan shall include, at a minimum, the same standard provisions required of a parole plan under this instruction (e.g., drug treatment, aftercare, or urinalysis for drug offenders; alcohol treatment for alcohol-related offenses; employment; reporting requirements; etc.). The NC&PB may impose, in its sound discretion, any additional reasonable supervision conditions to the release plan that would, in the judgment of the Board, further an orderly and successful transition to civilian life for released offenders and which would better protect the communities into which the offenders are released.

703. Release Plan Notification. The terms and conditions of supervised release, as determined by the NC&PB and identified in the release plan, will be communicated to the releasee using DD Form 2716-1, Certificate of Parole. The releasee will acknowledge receipt of the provisions of the terms and conditions of supervised release. If the releasee refuses to acknowledge receipt, the notification will be witnessed, certifying that the releasee was advised of the terms and conditions of supervised release.

704. Acceptance of the Release Plan. The departure of the releasee from the confinement facility constitutes acceptance of the terms and conditions of supervised release.

705. Supervision of Supervised Releasees. Supervision will comply, to the extent practicable, with the terms and conditions specified in Section 518 of this Instruction.

706. Conditions of Supervised Release. Conditions will comply, to the extent practicable, with the terms and conditions specified in Sections 519 and 521 of this Instruction.

707. Clemency: Modification, Release or Termination. The NC&PB may, at its discretion or upon the request of the supervising USPO, modify or waive any terms or conditions of supervision or may terminate supervision entirely. (See Sections 520 and 522 of this Instruction.)

708. Violations. A violation of the term of supervised release will be considered equivalent to a violation of the terms and conditions of parole and processed in accordance with the procedures specified in Parts V and VI of this Instruction.

709. Prospective Application. All paragraphs in this Instruction which relate to the supervised release (as if on parole) of offenders at their mandatory release date to mandatory supervision affect only those offenders in which any act with a finding of guilty occurred after 17 August 2001.

710. Federal Bureau of Prisons Offenders. Military offenders who have been transferred to the FBOP and are given early release through good time credits may be placed under mandatory supervision (as if on parole). The U.S. Parole Commission will determine the terms and conditions of any such mandatory supervision. In deciding whether or not to place a military offender on mandatory supervision, the U.S. Parole Commission should consider the criteria set out within this instruction for use by the NC&PB. This paragraph affects only those offenders in which any act of finding of guilty occurred after 17 August 2001.



APPENDIX A

LIST OF FORMS

This appendix lists the principal forms used in clemency and parole review and the source of supply.

a. The following clemency forms are available through normal supply channels in accordance with NAVSUP 2002:

1. *DD Form 2715 (Nov-99) Clemency/Parole Submission*
2. *DD Form 2715-1 (Nov-99) Disposition Board Recommendation*
3. *DD Form 2715-2 (Nov-99) Inmate Summary Data*
4. *DD Form 2715-3 (Nov-99) Inmate Restoration/Return to Duty, Clemency and Parole Statement*

b. FBI 1-12 (Rev. 9-77), Wanted-Flash-Cancellation Notice, is available from the FBI, Identification Division, Attn: Recording Section, Department of Justice, Washington, D.C. 20537.

c. The following parole forms are stocked by the NC&PB:

1. *DD Form 2716-1 (Nov-99), Certificate of Parole*
2. *DD Form 2716 (Nov-99), Parole Acknowledgement Letter*

APPENDIX B

FBI REPORTABLE OFFENSES

Only certain offenses under the Uniform Code of Military Justice are reportable offenses. If the offense does not appear on this list, do not report the offense to the FBI.

UCMJ	ARTICLE	REPORT AS
90	10 U.S.C. sec. 890	Assault; assault & battery
95	10 U.S.C. sec. 895A	Escape
103A	10 U.S.C. sec. 903A	Looting/pillaging
104	10 U.S.C. sec. 904	Aid the enemy
106,A	10 U.S.C. sec. 906	Spying/espionage
108B	10 U.S.C. sec. 908B	Sell firearms/explosives/incendiaries
110	10 U.S.C. sec. 910	Hazard vessel
111	10 U.S.C. sec. 911	Drunk driving, personal injury
112	10 U.S.C. sec. 912	Use, possession, distribution drugs
116	10 U.S.C. sec. 916	Cause/participate in riot
118	10 U.S.C. sec. 918	Murder
119	10 U.S.C. sec. 919	Voluntary/involuntary manslaughter
120	10 U.S.C. sec. 920	Rape/carnal knowledge
121	10 U.S.C. sec. 921	Larceny/wrongful appropriation >\$100
122	10 U.S.C. sec. 922	Robbery with firearm
123	10 U.S.C. sec. 923	Forgery
124	10 U.S.C. sec. 924	Maiming
125	10 U.S.C. sec. 925	Sodomy by force with a child under 16
126	10 U.S.C. sec. 926	Arson
127	10 U.S.C. sec. 927	Extortion
128	10 U.S.C. sec. 928	Assault/battery/aggravated

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UCMJ	ARTICLE	REPORT AS
129	10 U.S.C. sec. 929	Burglary
130	10 U.S.C. sec. 930	Housebreaking
131	10 U.S.C. sec. 931	Perjury
134	10 U.S.C. sec. 934	Enter description if maximum punishment imposable is more than one year, <u>e.g.</u> , assault with intent

APPENDIX C

GUIDELINES FOR PAROLE DECISION-MAKING

PART I	INSTRUCTIONS
PART II	SALIENT FACTOR SCORE
PART III	OFFENSE SEVERITY RATING
PART IV	DECISION-MAKING MATRIX

PART I

INSTRUCTIONS

The Decision-Making Matrix found in Part IV of this appendix indicates the minimum-maximum total number of months (the customary range of confinement) that should normally be served in confinement (includes pretrial confinement) by an offender before release on parole for each combination of Salient Factor Characteristics (Part II)/Offense Severity rating (Part III) (e.g., 12-16 months) and is intended to serve as a non-binding guideline for decision-making. For the purpose of denying parole, if the Decision-Making Matrix reveals that the offender has served less than the customary number of months for a particular offense(s), further justification for denying parole is not necessary. If, however, an offender is requesting parole and the Decision-Making Matrix indicates that the offender is within or above the customary range of confinement, then the NC&PB must articulate the reasons for denying the offender parole.

Salient Factor Score. The Salient Factor Score is an indicator of an offender's potential for success on parole and is determined by reviewing certain aspects of the offender's character, including any history of prior misconduct. Positive points are assigned for favorable conduct/prior history of conduct. Six areas are considered:

- a. Number of prior convictions (including any nonjudicial punishments)
- b. Prior commitment(s)
- c. Age at the time of the current offense
- d. Recent commitment-free period
- e. Confinement status at time of current offense
- f. History of substance use/abuse/dependency

Based on these areas of character consideration, a Salient Factor Score of 0 to 10 is assigned to each offender. That Salient Factor Score, when combined with a Severity Offense Rating, is placed on the Decision-Making Matrix and identifies the customary range of confinement normally to be served prior to an offender being released from confinement on parole. This customary range of confinement is then used by the NC&PB to assist it in determining the adequacy of punishment in light of the confinement served by the offender to date and the potential parole risk for the individual offender. These "Guidelines for Parole Decision-Making" are one of many factors that provide a rational basis for parole decision-making by NC&PB; but they are non-binding guidelines; they do not mandate clemency/parole in specific NC&PB cases.

## PART II

### SALIENT FACTOR SCORE

#### RANK/NAME/SSN OF OFFENDER

#### SECTION A - ANALYSIS OF OFFENDER

SALIENT FACTORS .....SCORE

PRIOR CONVICTIONS/ADJUDICATIONS (CIVILIAN, ADULT AND JUVENILE... \_\_\_\_\_  
AND MILITARY COURTS-MARTIAL AND NONJUDICIAL PUNISHMENT) An  
instance of criminal behavior resulting in a judicial deter-  
mination of guilt or an admission of guilt before a judicial or  
nonjudicial (Article 15, UCMJ) body is treated as a conviction,  
even if a conviction is not formally entered.

None .....	3
One .....	2
Two or three .....	1
Four or more .....	0

PRIOR COMMITMENT(S) OF THIRTY DAYS OR MORE (CIVILIAN OR ..... \_\_\_\_\_  
MILITARY)

None .....	2
One or two .....	1
Three or more .....	0

AGE AT COMMENCEMENT OF CURRENT OFFENSE .....

---

26 years of age or more .....\*2  
20-25 years of age .....\*1  
19 years of age or less ..... 0

\*EXCEPTION: If five or more prior commitments of  
thirty or more days (civilian or military), place  
"x" here \_\_ and score this item ..0

RECENT COMMITMENT FREE PERIOD (THREE YEARS) .....

---

No prior commitment of thirty days or more (civilian  
or military) or released from last such commitment at  
least three years prior to the commencement of the  
current offense ..... 1  
otherwise ..... 0

CONFINEMENT/ESCAPE/SUSPENDED SENTENCE/UNAUTHORIZED ABSENCE  
STATUS .....

---

Neither on suspended sentence, confinement, escape or  
unauthorized absentee status at the time of the current  
offense; nor committed as a suspended sentence, confinement,  
or escape status violator this time ... 1  
Otherwise ..... 0

ALCOHOL/DRUG DEPENDENCE/SIGNIFICANT ABUSE .....

---

No history of alcohol/drug dependence or significant  
abuse ..... 1  
Otherwise ..... 0

OLDER OFFENDERS .....

---

*If the offender was 41 years of age or more at the  
commencement of the current offense (and the total  
score from items A - F above is 9 or less).. 1  
Otherwise ..... 0*

TOTAL: SALIENT FACTOR SCORE .....

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PART III  
OFFENSE SEVERITY SCALE  
(ALPHABETICAL)  
UCMJ CODES FOR DoD USE

Severity of offenses marked with an asterisk (\*) are to be determined on a range of 1 through 8 by the classifier.

CODE	DESCRIPTION	SEV	MAX DISC	MAX CONF
134-A1	ABUSING ANIMAL	1	NONE	3 M
134-B1	ADULTERY	1	DD	1 Y
104-A-	AIDING THE ENEMY	8	DEATH	LIFE
096-B2	ALLOW ESCAPE: DESIGN	3	DD	2 Y
096-B1	ALLOW ESCAPE: NEGLECT	1	BCD	1 Y
126-A-	ARSON: AGGRAVATED	6	DD	20 Y
126-B1	ARSON: PROPERTY \$100 OR LESS	2	DD	1 Y
126-B2	ARSON: PROPERTY MORE THAN \$100	4	DD	5 Y
128-B-	ASSAULT: BY BATTERY	1	BCD	6 M
128-G-	ASSAULT: CHILD UNDER 16	2	DD	2 Y
128-C-	ASSAULT: COMMISSIONED OFFICER	2	DD	3 Y
091-A1	ASSAULT: CWO	3	DD	5 Y
128-D-	ASSAULT: CWO	1	DD	18 M
128-J1	ASSAULT: HARM INFLICTED, FIREARM	7	DD	10 Y
128-J2	ASSAULT: HARM INFLICTED, OTHER	5	DD	5 Y
128-H1	ASSAULT: HARM INTENDED, FIREARM	5	DD	8 Y
128-H2	ASSAULT: HARM INTENDED, OTHER	3	DD	3 Y
090-A2	ASSAULT: IN TIME OF WAR	8	DEATH	LIFE
134-C1	ASSAULT: INDECENT	5	DD	5 Y
134-C8	ASSAULT: INTENT ARSON/BURGLARY	7	DD	10 Y
134-C7	ASSAULT: INTENT TO HOUSEBREAK	5	DD	5 Y
134-C3	ASSAULT: INTENT TO MANSLAUGHTER	7	DD	10 Y
134-C2	ASSAULT: INTENT TO MURDER	7	DD	20 Y
134-C4	ASSAULT: INTENT TO RAPE	7	DD	20 Y
134-C5	ASSAULT: INTENT TO ROB	7	DD	10 Y
134-C6	ASSAULT: INTENT TO SODOMIZE	7	DD	10 Y
128-F-	ASSAULT: MILITARY/CIV LAW ENFORCER	3	DD	3 Y
128-E-	ASSAULT: NCO OR PO	1	BCD	6 M
090-A1	ASSAULT: OFFICER EXECUTING DUTY	5	DD	10 Y
091-A3	ASSAULT: OTHER NCO/PO	2	DD	1 Y
128-A-	ASSAULT: SIMPLE	2	NONE	3 M
091-A2	ASSAULT: SUPERIOR NCO/PO	2	DD	3 Y
134-Y2	ASSIMILATED CRIMES ACT	*	PRES	PRES
123AB-	BAD CHECK: DECEIVE	1	BCD	6 M
123AA1	BAD CHECK: DEFRAUD \$100 OR LESS	1	BCD	6 M
123AA2	BAD CHECK: DEFRAUD MORE THAN \$100	2	DD	5 Y
099-D-	BEFORE ENEMY: CAST AWAY ARMS OR AMMUNITION	8	DEATH	LIFE
099-G-	BEFORE ENEMY: CAUSE FALSE ALARMS	8	DEATH	LIFE
099-E-	BEFORE ENEMY: COWARDLY CONDUCT	8	DEATH	LIFE
099-C-	BEFORE ENEMY: ENDANGER COMMAND/UNIT/PLACE/SHIP	8	DEATH	LIFE
099-I	BEFORE ENEMY: FAIL TO AFFORD RELIEF OR ASSSISTANCE	8	DEATH	LIFE
099-F-	BEFORE ENEMY: QUIT PLACE OF DUTY TO PLUNDER/PILLAGE	8	DEATH	LIFE
099-A-	BEFORE ENEMY: RUN AWAY	8	DEATH	LIFE

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CODE	DESCRIPTION	SEV	MAX DISC	MAX CONF
099-B-	BEFORE ENEMY SHAMEFUL ABANDON/SURRENDER/DELIVER COMMAND	8	DEATH	LIFE
099-H-	BEFORE ENEMY: WILLFUL FAILURE TO ENCOUNTER ENEMY	8	DEATH	LIFE
134-B2	BIGAMY	1	DD	2 Y
116-B-	BREACH OF PEACE	1	NONE	6 M
095-B-	BREAK ARREST	1	BCD	6 M
134-G3	BREAK QUARANTINE	1	NONE	6 M
134-D1	BRIBERY	5	DD	5 Y
129---	BURGLARY	5	DD	10 Y
134-E1	BURN WITH INTENT TO DEFRAUD	4	DD	10 Y
120-B1	CARNAL KNOWLEDGE: CHILD 12 TO 16 YRS OLD	4	DD	20 Y
120-B2	CARNAL KNOWLEDGE: CHILD UNDER 12 YRS OLD	7	DD	LIFE
134-F1	CHECK: WORTHLESS MAKE/UTTER	1	BCD	6 M
134-B3	COHABITATION: WRONGFUL	1	NONE	4 M
104-D-	COMMUNICATING WITH THE ENEMY	8	DEATH	LIFE
100-A-	COMPEL SURRENDER	8	DEATH	LIFE
133-A-	CONDUCT UNBECOMING OFFICER: COPY CHEAT	3	DIS	PRES
133-B-	CONDUCT UNBECOMING OFFICER: DRUNK/DISORDERLY	3	DIS	PRES
133-C-	CONDUCT UNBECOMING OFFICER: FRATERNIZATION	3	DIS	PRES
133-D-	CONDUCT UNBECOMING OFFICER: OTHER	3	DIS	PRES
088---	CONTEMPT TOWARD OFFICIALS	2	DIS	1 Y
134-G2	CORRECTIONAL CUSTODY: BREACH	2	BCD	6 M
134-G1	CORRECTIONAL CUSTODY: ESCAPE	2	DD	1 Y
134-Y1	CRIME AND OFFENSES NOT CAPITAL	*	PRES	PRES
093---	CRUELTY AND MALTREATMENT	3	DD	1 Y
103-C1	DEALING IN CAPTURED PROPERTY: \$100 OR LESS	2	BCD	6 M
103-C2	DEALING IN CAPTURED PROPERTY: MORE THAN \$100	3	DD	5 Y
098-A-	DELAY DISPOSITION OF CASE	1	BCD	6 M
132-G1	DELIVER LESSER AMT THAN ON RECEIPT: \$100 OR LESS	1	BCD	6 M
132-G2	DELIVER LESSER AMT THAN ON RECEIPT: MORE THAN \$100	5	DD	5 Y
092-C1	DERELICT DUTIES: NEGLECT	1	NONE	3 M
092-C2	DERELICT DUTIES: WILLFUL	2	BCD	6 M
085-A-	DESERT AVOID DUTY	4	DD	5 Y
085-C1	DESERT BEFORE NOTICE: APPREHEND	3	DD	3 Y
085-C2	DESERT BEFORE NOTICE: OTHER	1	DD	2 Y
085-D-	DESERT IN TIME OF WAR	8	DEATH	LIFE
085-B2	DESERT OTHERWISE TERMINATE	2	DD	2 Y
085-B1	DESERT TERMINATE BY APPREHENSION	3	DD	3 Y
109-B1	DESTROY OR DAMAGE NONMILT PROPTY: \$100 OR LESS	1	BCD	1 Y
109-B2	DESTROY OR DAMAGE NONMILT PROPTY: MORE THAN \$100	3	DD	5 Y
101-A-	DISCLOSE PAROLE/COUNTERSIGN TO UNAUTHORIZED	8	DEATH	LIFE
134-I1	DISLOYAL STATEMENT	4	DD	3 Y
091-B1	DISOBEY: CWO	2	DD	2 Y
090-B2	DISOBEY: IN TIME OF WAR	8	DEATH	LIFE
090-B1	DISOBEY: LAWFUL ORDER OF COMMANDING OFFICER	3	DD	5 Y
091-B2	DISOBEY: NCO OR PO	1	BCD	1 Y
134-J8	DISORDERLY CONDUCT: BRING DISCREDIT	1	NONE	4 M
134-J9	DISORDERLY CONDUCT: OTHER CASES	1	NONE	1 M
089---	DISRESPECT TOWARD SUPERIOR	1	BCD	1 Y
091-C1	DISRESPECT: CWO	2	BCD	9 M
091-C3	DISRESPECT: OTHER NCO/PO	2	NONE	3 M
091-C2	DISRESPECT: SUPERIOR NCO/PO	2	BCD	6 M
134-J6	DRINK LIQUOR WITH OFFENDER	1	NONE	3 M



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CODE	DESCRIPTION	SEV	MAX DISC	MAX CONF
112AD1	DRUGS: DISTRIBUTE SCHEDULE I, II, OR III DRUGS	5	DD	15 Y
112AD2	DRUGS: DISTRIBUTE SCHEDULE IV OR V DRUGS	4	DD	10 Y
112AI1	DRUGS: IMPORT AND/OR EXPORT SCHEDULE I, II OR III	5	DD	15 Y
112AI2	DRUGS: IMPORT AND/OR EXPORT SCHEDULE IV OR V DRUGS	4	DD	10 Y
112AH1	DRUGS: INTRO W/INTENT TO DISTR SKED I, II, OR III	5	DD	15 Y
112AH2	DRUGS: INTRO W/INTENT TO DISTR SKED IV OR V	4	DD	10 Y
112AG4	DRUGS: INTRODUCE 30 GRAMS OR MORE OF MARIJUANA	4	DD	5 Y
112AG3	DRUGS: INTRODUCE LESS THAN 30 GRAMS OF MARIJUANA	1	DD	2 Y
112AG1	DRUGS: INTRODUCE SCHEDULE I, II, OR III DRUGS	3	DD	5 Y
112AG2	DRUGS: INTRODUCE SCHEDULE IV OR V DRUGS	1	DD	2 Y
112AE4	DRUGS: MANUFACTURE 30 GRAMS OR MORE OF MARIJUANA	3	DD	5 Y
112AE3	DRUGS: MANUFACTURE LESS THAN 30 GRAMS OF MARIJUANA	1	DD	2 Y
112AE1	DRUGS: MANUFACTURE SCHEDULE I, II, OR III DRUGS	5	DD	5 Y
112AE2	DRUGS: MANUFACTURE SCHEDULE IV OR V DRUGS	4	DD	2 Y
112AF1	DRUGS: MFG W/INTENT TO DISTR SKED I, II, OR III	5	DD	15 Y
112AF2	DRUGS: MFG W/INTENT TO DISTR SKED IV OR V	4	DD	10 Y
112AB1	DRUGS: POSS W/INTENT TO DISTR SKED I, II OR III	5	DD	15 Y
112AB2	DRUGS: POSS W/INTENT TO DISTR SKED IV OR V	4	DD	10 Y
112AA4	DRUGS: POSSESS 30 GRAMS OR MORE OF MARIJUANA	3	DD	5 Y
112AA3	DRUGS: POSSESS LESS THAN 30 GRAMS OF MARIJUANA	1	DD	2 Y
112AA1	DRUGS: POSSESS SCHEDULE I, II, OR III DRUGS	3	DD	5 Y
112AA2	DRUGS: POSSESS SCHEDULE IV OR V DRUGS	1	DD	2 Y
112AC4	DRUGS: USE 30 GRAMS OR MORE OF MARIJUANA	3	DD	5 Y
112AC3	DRUGS: USE LESS THAN 30 GRAMS OF MARIJUANA	1	DD	2 Y
112AC1	DRUGS: USE SCHEDULE I, II, OR III DRUGS	3	DD	5 Y
112AC2	DRUGS: USE SCHEDULE IV OR V DRUGS	1	DD	2 Y
111-A2	DRUNK DRIVING: OTHER CASES	1	BCD	6 M
111-A1	DRUNK DRIVING: PERSONAL INJURY	2	DD	18 M
112---	DRUNK ON DUTY	1	BCD	9 M
134-J7	DRUNK OFFENDER/PRISONER	1	NONE	3 M
134-J4	DRUNK/DISORDERLY: BRINGING DISCREDIT	1	NONE	6 M
134-J3	DRUNK/DISORDERLY: ON SHIP	1	BCD	6 M
134-J5	DRUNK/DISORDERLY: OTHER	1	NONE	3 M
134-J1	DRUNK: ABOARD SHIP	1	NONE	3 M
134-J2	DRUNK: OTHER CASES	1	NONE	1 M
134-J0	DRUNK: UNABLE TO PERFORM DUTIES	1	NONE	3 M
114---	DUELING	1	DD	1 Y
095-C-	ESCAPE FROM CUSTODY	3	DD	1 Y
095-D2	ESCAPE FROM POST-TRIAL CONFINEMENT	3	DD	5 Y
095-D1	ESCAPE FROM PRETRIAL CONFINEMENT	3	DD	1 Y
106-A-	ESPIONAGE	8	DEATH	LIFE
127---	EXTORTION	5	DD	3 Y
098-B-	FAIL TO ENFORCE PROCEDURAL RULES	3	DD	5 Y
092-A1	FAIL TO OBEY GENERAL ORDER: APPEARANCE	2	DD	2 Y
092-A2	FAIL TO OBEY GENERAL ORDER: BLACK MARKET	2	DD	2 Y
092-A3	FAIL TO OBEY GENERAL ORDER: FRATERNIZATION	2	DD	2 Y
092-A0	FAIL TO OBEY GENERAL ORDER: OTHER	2	DD	2 Y
092-A4	FAIL TO OBEY GENERAL ORDER: PARAPHERNALIA	2	DD	2 Y
092-A5	FAIL TO OBEY GENERAL ORDER: SECURITY	2	DD	2 Y
092-A6	FAIL TO OBEY GENERAL ORDER: SEXUAL HARASSMENT	2	DD	2 Y

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092-A7	FAIL TO OBEY GENERAL ORDER: STANDARDS OF CONDUCT	2	DD	2 Y
092-A8	FAIL TO OBEY GENERAL ORDER: TRAFFIC	2	DD	2 Y
092-A9	FAIL TO OBEY GENERAL ORDER: WEAPONS	2	DD	2 Y
092-B-	FAIL TO OBEY OTHER ORDER	1	BCD	6 M
134-H1	FAIL TO PAY DEBT	1	BCD	6 M
103-B1	FAIL TO REPORT/TURN OVER PROPERTY: \$100 OR LESS	1	BCD	6 M
103-B2	FAIL TO REPORT/TURN OVER PROPERTY: MORE THAN \$100	3	DD	5 Y
103-A1	FAIL TO SECURE PROPERTY: \$100 OR LESS	1	BCD	6 M
103-A2	FAIL TO SECURE PROPERTY: MORE THAN \$100	3	DD	5 Y
107-B-	FALSE OFFICIAL STATEMENTS	3	DD	5 Y
134-L1	FALSE PRETENSE: \$100 OR LESS	1	BCD	6 M
134-L2	FALSE PRETENSE: MORE THAN \$100	2	DD	5 Y
134-M1	FALSE SWEARING	2	DD	3 Y
134-N1	FIREARM: DISCHARGE NEGLECT	1	NONE	3 M
134-N2	FIREARM: DISCHARGE WILLFUL	2	DD	1 Y
134-O1	FLEE SCENE: ACCIDENT	1	BCD	6 M
102---	FORCING SAFEGUARD	8	DEATH	LIFE
123-A-	FORGERY: MAKING/ALTERING	3	DD	5 Y
123-B-	FORGERY: UTTERING	3	DD	5 Y
134-B4	FRATERNIZATION	3	DIS	2 Y
132-C-	FRAUD: FALSE DOCUMENT WITH CLAIM	5	DD	5 Y
132-D-	FRAUD: FALSE OATH IN CONNECTION WITH CLAIM	5	DD	5 Y
132-E-	FRAUD: FORGERY OF SIGNATURE	5	DD	5 Y
132-A-	FRAUD: MAKE FALSE CLAIM	5	DD	5 Y
132-B-	FRAUD: PRESENT FALSE CLAIM	5	DD	5 Y
132-F-	FRAUD: USE FORGED SIGNATURE	5	DD	5 Y
083-A-	FRAUDULENT ENLISTMENT	3	DD	2 Y
083-B-	FRAUDULENT SEPARATION	3	DD	5 Y
134-P1	GAMBLE WITH SUBORDINATE	1	NONE	3 M
101-B-	GIVE PAROLE/COUNTERSIGN DIFFERENT FROM AUTHORIZED	8	DEATH	LIFE
104-C-	GIVING INTELLIGENCE TO THE ENEMY	8	DEATH	LIFE
134-D2	GRAFT	2	DD	3 Y
104-B-	HARBORING OR PROTECTING THE ENEMY	8	DEATH	LIFE
110-B-	HAZARD VESSEL: NEGLIGENT	4	DD	2 Y
110-A-	HAZARD VESSEL: WILLFUL	8	DEATH	LIFE
134-C9	HOMICIDE: NEGLIGENT	4	BCD	3 Y
130--	HOUSEBREAKING	5	DD	5 Y
134-Q1	IMPERSONATE, INTENT TO DEFRAUD: OFF, WO, NCO	3	DD	3 Y
134-Q3	IMPERSONATE, INTENT TO DEFRAUD: OTHER	3	DD	3 Y
134-Q2	IMPERSONATE, NO INTENT TO DEFRAUD: OFF, WO, NCO	1	BCD	6 M
134-Q4	IMPERSONATE, NO INTENT TO DEFRAUD: OTHER	1	BCD	6 M
134-R1	INDECENT ACT: WITH CHILD	5	DD	7 Y
134-R5	INDECENT ACTS: WITH OTHERS	4	DD	5 Y
134-R2	INDECENT EXPOSURE	1	BCD	6 M
134-R3	INDECENT LANGUAGE TO CHILD UNDER 16	2	DD	2 Y
134-R4	INDECENT LANGUAGE: ALL OTHER	1	BCD	6 M
115-B2	INJURE SELF: OTHER	3	DD	5 Y
115-B1	INJURE SELF: TIME OF WAR	5	DD	10 Y
134-P2	JUMP VESSEL	1	BCD	6 M
134-S1	KIDNAPPING	7	DD	LIFE
121-A1	LARCENY: MILT PROPERTY \$100 OR LESS	1	BCD	1 Y
121-A2	LARCENY: MILT PROPERTY MORE THAN \$100	3	DD	10 Y

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CODE	DESCRIPTION	SEV	MAX DISC	MAX CONF
121-B1	LARCENY: NONMILT PROPERTY \$100 OR LESS	1	BCD	6 M
121-B2	LARCENY: NONMILT PROPERTY MORE THAN \$100	3	DD	5 Y
103-D-	LOOTING, PILLAGING	7	DD	LIFE
134-T3	MAIL: ALL OTHER	1		
134-T2	MAIL: DEPOSIT OBSCENITY	3	DD	5 Y
134-T1	MAIL: DESTROY, STEAL, TAKE, OPEN	3	DD	5 Y
124---	MAIMING	1	DD	7 Y
132-H1	MAKE/DELIVER RCPT W/OUT FULL KNOWL: \$100 OR LESS	1	BCD	6 M
132-H2	MAKE/DELIVER RCPT W/OUT FULL KNOWL: MORE THAN \$100	5	DD	5 Y
115-A2	MALINGER: OTHER	1	DD	1 Y
115-A1	MALINGER: TIME OF WAR	3	DD	3 Y
119-B1	MANSLAUGHTER: INVOLUNTARY	4	DD	10 Y
119-B2	MANSLAUGHTER: INVOLUNTARY WITH SPECIFIED OFFENSES	4	DD	10 Y
119-A-	MANSLAUGHTER: VOLUNTARY	7	DD	15 Y
134-K4	MILT PASS: ALL OTHER	1	BCD	6 M
134-K1	MILT PASS: WRONGFUL MAKE/TAMPER/ALTER/COUNTERFEIT	2	DD	3 Y
134-K2	MILT PASS: WRONGFUL SALE/GIFT/LOAN/DISPOSITION	2	DD	3 Y
134-K3	MILT PASS: WRONGFUL USE/POSSESS	2	DD	3 Y
121-C1	MISAPPROPRIATE: \$100 OR LESS	1	NONE	3 M
121-C3	MISAPPROPRIATE: CAR, PLANE, BOAT	2	DD	2 Y
121-C2	MISAPPROPRIATE: MORE THAN \$100	2	BCD	6 M
113-A1	MISBEHAVE: SENTINEL IN WAR	8	DEATH	LIFE
113-A3	MISBEHAVE: SENTINEL OTHER PLACES	2	DD	1 Y
113-A2	MISBEHAVE SENTINEL WITH SPECIAL PAY	5	DD	10 Y
105-A-	MISCONDUCT AS POW: FOR FAVORABLE TREATMENT	7	DD	LIFE
105-B-	MISCONDUCT AS POW: MALTREAT OFFENDER	7	DD	LIFE
134-U1	MISPRISION: SERIOUS OFFENSE	2	DD	3 Y
087-A-	MISS MOVEMENT: DESIGN	2	DD	2 Y
087-B-	MISS MOVEMENT: NEGLECT	1	BCD	1 Y
118-C-	MURDER: ACT DANGEROUS TO OTHERS	8	DD	LIFE
118-B-	MURDER: INTENT TO KILL/INFLECT GREAT BODILY HARM	8	DD	LIFE
118-A-	MURDER: PREMEDITATED	8	DEATH	MLIF
118-D-	MURDER: WITH SPECIFIED OFFENSES	8	DEATH	MLIF
094-A1	MUTINY BY VIOLENCE OR DISTURBANCE	8	DEATH	LIFE
094-A3	MUTINY: FAILURE TO PREVENT OR SUPPRESS	8	DEATH	LIFE
094-A4	MUTINY: FAILURE TO REPORT	8	DEATH	LIFE
094-A2	MUTINY: REFUSING TO OBEY ORDERS OR PERFORM DUTY	8	DEATH	LIFE
108-B1	NEGLECT: DAMAGE MILT PROPERTY: \$100 OR LESS	1	NONE	6 M
108-B2	NEGLECT: DAMAGE MILT PROPERTY: MORE THAN \$100	2	BCD	1 Y
134-U2	OBSTRUCT JUSTICE	3	DD	5 Y
134-Z-	OTHER 134	*	PRES	PRES
134-B5	PANDERING	3	DD	5 Y
134-G5	PAROLE: VIOLATION OF	1	BCD	6 M
131-A-	PERJURY: GIVING FALSE TESTIMONY	3	DD	5 Y
134-U3	PERJURY: SUBORNATION OF	3	DD	5 Y
131-B-	PERJURY: SUBSCRIBING FALSE STATEMENT	3	DD	5 Y
134-G6	OFFENDER: ALLOWING TO DO UNAUTHORIZED ACT	1	NONE	3 M
134-V2	PROPERTY: SEIZURE, DESTRUCTION, REMOVAL	2	DD	1 Y
134-B6	PROSTITUTION	2	DD	1 Y
117---	PROVOKING SPEECH/GESTURE	1	NONE	6 M
134-U5	PUBLIC RECORD: ALTER/REMOVE	2	DD	3 Y
120-A-	RAPE	7	DEATH	LIFE

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CODE	DESCRIPTION	SEV	MAX DISC	MAX CONF
111-B2	RECKLESS DRIVING: OTHER CASES	1	BCD	6 M
111-B1	RECKLESS DRIVING: PERSONAL INJURY	2	DD	18 M
134-U8	REFUSE TO TESTIFY	2	DD	5 Y
096-A-	RELEASE OFFENDER WITHOUT AUTHORITY	3	DD	2 Y
134-U6	REQUEST COMMISSION OF OFFENSE	1	NONE	4 M
095-A-	RESIST APPREHENSION	2	BCD	1 Y
134-G4	RESTRICTION: BREAKING	1	NONE	1 M
116-A-	RIOT	5	DD	10 Y
122-B-	ROBBERY: OTHER CASES	5	DD	10 Y
122-A-	ROBBERY: WITH FIREARM	6	DD	15 Y
094-B1	SEDITION	8	DEATH	LIFE
094-B2	SEDITION: FAILURE TO PREVENT OR SUPPRESS	8	DEATH	LIFE
094-B3	SEDITION: FAILURE TO REPORT	8	DEATH	LIFE
108-A1	SELL MILT PROPERTY: \$100 OR LESS	1	BCD	1 Y
108-A3	SELL MILT PROPERTY: FIREARM OR EXPLOSIVE	4	DD	10 Y
108-A2	SELL MILT PROPERTY: MORE THAN \$100	4	DD	10 Y
134-W1	SENTINEL: DISRESPECT	1	NONE	3 M
134-W3	SENTINEL: LOITERING AT OTHER TIMES	1	BCD	6 M
134-W2	SENTINEL: LOITERING IN TIME OF WAR	8	DD	2 Y
107-A-	SIGN FALSE DOCUMENT	3	DD	5 Y
125-B1	SODOMY: CHILD 12 TO 16 YRS OLD	4	DD	20 Y
125-B2	SODOMY: CHILD UNDER 12 YRS OLD	7	DD	LIFE
125-A-	SODOMY: FORCE	6	DD	LIFE
125-C-	SODOMY: OTHER	4	DD	5 Y
134-U7	SOLICIT: ANOTHER TO COMMIT OFFENSE	*	PRES	PRES
082-B4	SOLICIT: ACT OF SEDITION	5	DD	10 Y
082-A-	SOLICIT: COMMIT/ATTEMPT	*	NONE	
082-B1	SOLICIT: DESERT	3	DD	3 Y
082-B3	SOLICIT: MISBEHAVE BEFORE ENEMY	5	DD	10 Y
082-B2	SOLICIT: MUTINY	5	DD	10 Y
106---	SPYING	8	DEATH	N/A
134-V3	STOLEN PROPERTY RECEIVE/CONCEAL/BUY \$100 OR LESS	1	BCD	6 M
134-V4	STOLEN PROPERTY RECEIVE/CONCEAL/BUY MORE THAN \$100	2	DD	3 Y
134-P3	STRAGGLING	1	NONE	3 M
100-B-	STRIKE FLAG BEFORE ENEMY	8	DEATH	LIFE
134-X1	THREAT: BOMB	3	DD	5 Y
134-X2	THREAT: COMMUNICATE	5	DD	3 Y
086-B1	UA: 3 DAYS OR LESS	1	NONE	1 M
086-D-	UA: AVOID MANEUVERS	1	BCD	6 M
086-A1	UA: FROM PLACE OF DUTY	1	NONE	1 M
086-C2	UA: INTENT TO ABANDON	1	BCD	6 M
086-B2	UA: OVER 3 DAYS LESS THAN 30 DAYS	1	NONE	6 M
086-B4	UA: OVER 30 DAYS APPREHENDED	2	DD	18 M
086-B3	UA: OVER 30 DAYS	1	DD	1 Y
086-A2	UA: TO PLACE OF DUTY	1	NONE	1 M
086-CL	UA: WATCH OR GUARD	1	NONE	3 M
097---	UNLAWFUL DETENTION	4	DD	3 Y
084-A-	UNLAWFUL ENLISTMENT/APPOINTMENT	3	DD	5 Y
134-V1	UNLAWFUL ENTRY	1	BCD	6 M
084-B-	UNLAWFUL SEPARATION	3	DD	5 Y
109-A1	WASTE OR SPOIL NONMILT PROPERTY: \$100 OR LESS	1	BCD	1 Y
109-A2	WASTE OR SPOIL NONMILT PROPERTY: MORE THAN \$100	3	DD	5 Y

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CODE	DESCRIPTION	SEV	MAX DISC	MAX CONF
134-N3	WEAPON: CARRY CONCEALED	3	BCD	1 Y
134-P4	WEARING UNAUTHORIZED INSIGNIA	1	BCD	6 M
108-C1	WILLFUL DAMAGE MILT PROPERTY: \$100 OR LESS	1	BCD	1 Y
108-C3	WILLFUL DAMAGE MILT PROPERTY: FIREARM OR EXPLOSIVE	4	DD	10 Y
108-C2	WILLFUL: DAMAGE MILT PROPERTY: MORE THAN \$100	4	DD	10 Y
134-U4	WRONGFUL INTERFERENCES W/ADMIN PROCEEDING	3	DD	5 Y

PART III  
OFFENSE SEVERITY SCALE (NUMERICAL)  
UCMJ CODES FOR DoD USE

Severity of offenses marked with an asterisk (\*) are to be determined on a range of 1 through 8 by the classifier.

DESCRIPTION	CODE	SEV	MAX DISC	MAX CONF
** UCMJ CODE 082				
SOLICIT: COMMIT/ATTEMPT	082-A-		NONE	
SOLICIT: DESERT	082-B1	3	DD	3 Y
SOLICIT: MUTINY	082-B2	5	DD	10 Y
SOLICIT: MISBEHAVE BEFORE ENEMY	082-B3	5	DD	10 Y
SOLICIT: ACT OF SEDITION	082-B4	5	DD	10 Y
** UCMJ CODE 083				
FRAUDULENT ENLISTMENT	083-A-	3	DD	2 Y
FRAUDULENT SEPARATION	083-B-	3	DD	5 Y
** UCMJ CODE 084				
UNLAWFUL ENLISTMENT/APPOINTMENT	084-A-	3	DD	5 Y
UNLAWFUL SEPARATION	084-B-	3	DD	5 Y
** UCMJ CODE 085				
DESERT: AVOID DUTY	085-A-	4	DD	5 Y
DESERT: TERMINATE BY APPREHENSION	085-B1	3	DD	3 Y
DESERT: OTHERWISE TERMINATE	085-B2	2	DD	2 Y
DESERT: BEFORE NOTICE: APPREHEND	085-C1	3	DD	3 Y
DESERT: BEFORE NOTICE: OTHER	085-C2	1	DD	2 Y
DESERT: IN TIME OF WAR	085-D-	8	DEATH	LIFE
** UCMJ CODE 086				
UA: FROM PLACE OF DUTY	086-A1	1	NONE	1 M
UA: TO PLACE OF DUTY	086-A2	1	NONE	1 M
UA: 3 DAYS OR LESS	086-B1	1	NONE	1 M
UA: OVER 3 DAYS LESS THAN 30 DAYS	086-B2	1	NONE	6 M
UA: OVER 30 DAYS	086-B3	1	DD	1 Y
UA: OVER 30 DAYS APPREHENDED	086-B4	2	DD	18 M
UA: WATCH OR GUARD	086-C1	1	NONE	3 M
UA: INTENT TO ABANDON	086-C2	1	BCD	6 M
UA: AVOID MANEUVERS	086-D-	1	BCD	6 M
** UCMJ CODE 087				
MISS MOVEMENT: DESIGN	087-A-	2	DD	2 Y
MISS MOVEMENT: NEGLECT	087-B-	1	BCD	1 Y
** UCMJ CODE 088				
CONTEMPT TOWARD OFFICIALS	088---	2	DIS	1 Y
** UCMJ CODE 089				
DISRESPECT TOWARD SUPERIOR	089---	1	BCD	1 Y

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DESCRIPTION	CODE	SEV	MAX DISC	MAX CONF
** UCMJ CODE 090				
ASSAULT: OFFICER EXECUTING DUTY	090-A1	5	DD	10 Y
ASSAULT: IN TIME OF WAR	090-A2	8	DEATH	LIFE
DISOBEY: LAWFUL ORDER OF COMM OFFICER	090-B1	3	DD	5 Y
DISOBEY: IN TIME OF WAR	090-B2	8	DEATH	LIFE
** UCMJ CODE 091				
ASSAULT: CWO	091-A1	3	DD	5 Y
ASSAULT: SUPERIOR NCO/PO	091-A2	2	DD	3 Y
ASSAULT: OTHER NCO/PO	091-A3	2	DD	1 Y
DISOBEY: CWO	091-B1	2	DD	2 Y
DISOBEY: NCO OR PO	091-B2	1	BCD	1 Y
DISRESPECT: CWO	091-C1	2	BCD	9 M
DISRESPECT: SUPERIOR NCO/PO	091-C2	2	BCD	6 M
DISRESPECT: OTHER NCO/PO	091-C3	2	NONE	3 M
** UCMJ CODE 092				
FAIL TO OBEY GENERAL ORDER: OTHER	092-A0	2	DD	2 Y
FAIL TO OBEY GENERAL ORDER: APPEARANCE	092-A1	2	DD	2 Y
FAIL TO OBEY GENERAL ORDER: BLACK MARKET	092-A2	2	DD	2 Y
FAIL TO OBEY GENERAL ORDER: FRATERNIZATION	092-A3	2	DD	2 Y
FAIL TO OBEY GENERAL ORDER: PARAPHERNALIA	092-A4	2	DD	2 Y
FAIL TO OBEY GENERAL ORDER: SECURITY	092-A5	2	DD	2 Y
FAIL TO OBEY GENERAL ORDER: SEXUAL HARASSMENT	092-A6	2	DD	2 Y
FAIL TO OBEY GENERAL ORDER: STANDARDS OF CONDUCT	092-A7	2	DD	2 Y
FAIL TO OBEY GENERAL ORDER TRAFFIC	092-A8	2	DD	2 Y
FAIL TO OBEY GENERAL ORDER: WEAPONS	092-A9	2	DD	2 Y
FAIL TO OBEY OTHER ORDER	092-B-	1	BCD	6 M
DERELICT DUTIES: NEGLECT	092-C1	1	NONE	3 M
DERELICT DUTIES: WILLFUL	092-C2	2	BCD	6 M
** UCMJ CODE 093				
CRUELTY AND MALTREATMENT	093---	3	DD	1 Y
** UCMJ CODE 094				
MUTINY: BY VIOLENCE OR DISTURBANCE	094-A1	8	DEATH	LIFE
MUTINY: REFUSING TO OBEY ORDERS OR PERFORM DUTY	094-A2	8	DEATH	LIFE
MUTINY: FAILURE TO PREVENT OR SUPPRESS	094-A3	8	DEATH	LIFE
MUTINY: FAILURE TO REPORT	094-A4	8	DEATH	LIFE
SEDITION	094-B1	8	DEATH	LIFE
SEDITION: FAILURE TO PREVENT OR SUPPRESS	094-B2	8	DEATH	LIFE
SEDITION: FAILURE TO REPORT	094-B3	8	DEATH	LIFE
** UCMJ CODE 095				
RESIST APPREHENSION	095-A-	2	BCD	1 Y
BREAK ARREST	095-B-	1	BCD	6 M
ESCAPE FROM CUSTODY	095-C-	3	DD	1 Y
ESCAPE FROM PRETRIAL CONFINEMENT	095-D1	3	DD	1 Y
ESCAPE FROM POST-TRIAL CONFINEMENT	095-D2	3	DD	5 Y
** UCMJ CODE 096				
RELEASE OFFENDER/PRISONER WITHOUT AUTHORITY	096-A-	3	DD	2 Y
ALLOW ESCAPE: NEGLECT	096-B1	1	BCD	1 Y
ALLOW ESCAPE: DESIGN	096-B2	3	DD	2 Y
** UCMJ CODE 097				
UNLAWFUL DETENTION	097---	4	DD	3 Y
** UCMJ CODE 098				
DELAY DISPOSITION OF CASE	098-A-	1	BCD	6 M
FAIL TO ENFORCE PROCEDURAL RULES	098-B-	3	DD	5 Y

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DESCRIPTION	CODE	SEV	MAX DISC	MAX CONF
** UCMJ CODE 099				
BEFORE ENEMY: RUN AWAY	099-A-	8	DEATH	LIFE
BEFORE ENEMY: SHAMEFUL ABANDON/SURRENDER/DELIVER CMD	099-B-	8	DEATH	LIFE
BEFORE ENEMY: ENDANGER COMMAND/UNIT/PLACE/SHIP	099-C-	8	DEATH	LIFE
BEFORE ENEMY: CAST AWAY ARMS OR AMMUNITION	099-D-	8	DEATH	LIFE
BEFORE ENEMY: COWARDLY CONDUCT	099-E-	8	DEATH	LIFE
BEFORE ENEMY: QUIT PLACE OF DUTY TO PLUNDER/PILLAGE	099-F-	8	DEATH	LIFE
BEFORE ENEMY: CAUSE FALSE ALARMS	099-G-	8	DEATH	LIFE
BEFORE ENEMY: WILLFUL FAILURE TO ENCOUNTER ENEMY	099-H-	8	DEATH	LIFE
BEFORE ENEMY: FAIL TO AFFORD RELIEF OR ASSISTANCE	099-I-	8	DEATH	LIFE
** UCMJ CODE 100				
COMPEL SURRENDER	100-A-	8	DEATH	LIFE
** UCMJ CODE 101				
DISCLOSE PAROLE/COUNTERSIGN TO UNAUTHORIZED	101-A-	8	DEATH	LIFE
** UCMJ CODE 102				
FORCING SAFEGUARD	102---	8	DEATH	LIFE
** UCMJ CODE 103				
FAIL TO SECURE PROPERTY: \$100 OR LESS	103-A1	1	BCD	6 M
FAIL TO SECURE PROPERTY: MORE THAN \$100	103-A2	3	DD	5 Y
FAIL TO REPORT/TURN OVER PROPERTY: \$100 OR LESS	103-B1	1	BCD	6 M
FAIL TO REPORT/TURN OVER PROPERTY: MORE THAN \$100	103-B2	3	DD	5 Y
DEALING IN CAPTURED PROPERTY: \$100 OR LESS	103-C1	2	BCD	6 M
DEALING IN CAPTURED PROPERTY: MORE THAN \$100	103-C2	3	DD	5 Y
LOOTING, PILLAGING	103-D-	7	DD	LIFE
** UCMJ CODE 104				
AIDING THE ENEMY	104-A-	8	DEATH	LIFE
HARBORING OR PROTECTING THE ENEMY	104-B-	8	DEATH	LIFE
GIVING INTELLIGENCE TO THE ENEMY	104-C-	8	DEATH	LIFE
COMMUNICATING WITH THE ENEMY	104-D-	8	DEATH	LIFE
** UCMJ CODE 105				
MISCONDUCT AS POW: FOR FAVORABLE TREATMENT	105-A-	7	DD	LIFE
MISCONDUCT AS POW: MALTREAT OFFENDER	105-B-	7	DD	LIFE
** UCMJ CODE 106				
SPYING	106---	8	DEATH	N/A
** UCMJ CODE 106A				
ESPIONAGE	106-A-	8	DEATH	LIFE
** UCMJ CODE 107				
SIGN FALSE DOCUMENT	107-A-	3	DD	5 Y
FALSE OFFICIAL STATEMENTS	107-B-	3	DD	5 Y
** UCMJ CODE 108				
SELL MILT PROPERTY: \$100 OR LESS	108-A1	1	BCD	1 Y
SELL MILT PROPERTY: MORE THAN \$100	108-A2	4	DD	10 Y
SELL MILT PROPERTY: FIREARM OR EXPLOSIVE	108-A3	4	DD	10 Y
NEGLECT: DAMAGE MILT PROPERTY \$100 OR LESS	108-B1	1	NONE	6 M
NEGLECT: DAMAGE MILT PROPERTY MORE THAN \$100	108-B2	2	BCD	1 Y
WILLFUL DAMAGE MILT PROPERTY: \$100 OR LESS	108-C1	1	BCD	1 Y
WILLFUL DAMAGE MILT PROPERTY: MORE THAN \$100	108-C2	4	DD	10 Y
WILLFUL DAMAGE MILT PROPERTY: FIREARM OR EXPLOSIVE	108-C3	4	DD	10 Y
** UCMJ CODE 109				
WASTE OR SPOIL NONMILT PROPERTY: \$100 OR LESS	109-A1	1	BCD	1 Y
WASTE OR SPOIL NONMILT PROPERTY: MORE THAN \$100	109-A2	3	DD	5 Y
DESTROY OR DAMAGE NONMILT PROPERTY: \$100 OR LESS	109-B1	1	BCD	1 Y
DESTROY OR DAMAGE NONMILT PROPERTY: MORE THAN \$100	109-B2	3	DD	5 Y

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DESCRIPTION	CODE	SEV	MAX DISC	MAX CONF
** UCMJ CODE 110				
HAZARD VESSEL: WILLFUL	110-A-	8	DEATH	LIFE
HAZARD VESSEL: NEGLIGENT	110-B-	4	DD	2 Y
** UCMJ CODE 111				
DRUNK DRIVING: PERSONAL INJURY	111-A1	2	DD	18 M
DRUNK DRIVING: OTHER CASES	111-A2	1	BCD	6 M
RECKLESS DRIVING: PERSONAL INJURY	111-B1	2	DD	18 M
RECKLESS DRIVING: OTHER CASES	111-B2	1	BCD	6 M
** UCMJ CODE 112				
DRUNK ON DUTY	112---	1	BCD	9 M
** UCMJ CODE 112A				
DRUGS: POSSESS SCHEDULE I, II, OR III DRUGS	112AA1	3	DD	5 Y
DRUGS: POSSESS SCHEDULE IV OR V DRUGS	112AA2	1	DD	2 Y
DRUGS: POSSESS LESS THAN 30 GRAMS OF MARIJUANA	112AA3	1	DD	2 Y
DRUGS: POSSESS 30 GRAMS OR MORE OF MARIJUANA	112AA4	3	DD	5 Y
DRUGS: POSS W/INTENT TO DISTR SKED I, II, OR III	112AB1	5	DD	15 Y
DRUGS: POSS W/INTENT TO DISTR SKED IV OR V	112AB2	4	DD	10 Y
DRUGS: USE SCHEDULE I, II, OR III DRUGS	112AC1	3	DD	5 Y
DRUGS: USE SCHEDULE IV OR V DRUGS	112AC2	1	DD	2 Y
DRUGS: USE LESS THAN 30 GRAMS OF MARIJUANA	112AC3	1	DD	2 Y
DRUGS: USE 30 GRAMS OR MORE OF MARIJUANA	112AC4	3	DD	5 Y
DRUGS: DISTRIBUTE SCHEDULE I, II OR III DRUGS	112AD1	5	DD	15 Y
DRUGS: DISTRIBUTE SCHEDULE IV OR V DRUGS	112AD2	4	DD	10 Y
DRUGS: MANUFACTURE SCHEDULE I, II OR III DRUGS	112AE1	5	DD	5 Y
DRUGS: MANUFACTURE SCHEDULE IV OR V DRUGS	112AE2	4	DD	2 Y
DRUGS: MANUFACTURE LESS THAN 30 GRAMS OF MARIJUANA	112AE3	1	DD	2 Y
DRUGS: MANUFACTURE 30 GRAMS OR MORE OF MARIJUANA	112AE4	3	DD	5 Y
DRUGS: MFG W/INTENT TO DISTR SKED I, II, OR III	112AF1	5	DD	15 Y
DRUGS: MFG W/INTENT TO DISTR SKED IV OR V	112AF2	4	DD	10 Y
DRUGS: INTRODUCE SCHEDULE I, II, OR III DRUGS	112AG1	3	DD	5 Y
DRUGS: INTRODUCE SCHEDULE IV OR V DRUGS	112AG2	1	DD	2 Y
DRUGS: INTRODUCE LESS THAN 30 GRAMS OF MARIJUANA	112AG3	1	DD	2 Y
DRUGS: INTRODUCE 30 GRAMS OR MORE OF MARIJUANA	112AG4	4	DD	5 Y
DRUGS: INTRO W/INTENT TO DISTR SKED I, II, OR III	112AH1	5	DD	15 Y
DRUGS: INTRO W/INTENT TO DISTR SKED IV OR V	112AH2	4	DD	10 Y
DRUGS: IMPORT AND/OR EXPORT SCHEDULE I, II, OR III	112AI1	5	DD	15 Y
DRUGS: IMPORT AND/OR EXPORT SCHEDULE IV OR V	112AI2	4	DD	10 Y
** UCMJ ART 113				
MISBEHAVE: SENTINEL IN WAR	113-A1	8	DEATH	LIFE
MISBEHAVE: SENTINEL WITH SPECIAL PAY	113-A2	5	DD	10 Y
MISBEHAVE: SENTINEL OTHER PLACES	113-A3	2	DD	1 Y
** UCMJ CODE 114				
DUELING	114---	1	DD	1 Y
** UCMJ CODE 115				
MALINGER: TIME OF WAR	115-A1	3	DD	3 Y
MALINGER: OTHER	115-A2	1	DD	1 Y
INJURE SELF: TIME OF WAR	115-B1	5	DD	10 Y
INJURE SELF: OTHER	115-B2	3	DD	5 Y
** UCMJ CODE 116				
RIOT	116-A-	5	DD	10 Y
BREACH OF PEACE	116-B-	1	NONE	6 M
** UCMJ CODE 117				
PROVOKING SPEECH/GESTURE	117---	1	NONE	6 M



DESCRIPTION	CODE	SEV	MAX DISC	MAX CONF
** UCMJ CODE 118				
MURDER: PREMEDITATED	118-A-	8	DEATH	MLIF
MURDER: INTENT TO KILL/INFLECT GREAT BODILY HARM	118-B-	8	DD	LIFE
MURDER: ACT DANGEROUS TO OTHERS	118-C-	8	DD	LIFE
MURDER: WITH SPECIFIED OFFENSES	118-D-	8	DEATH	MLIF
** UCMJ CODE 119				
MANSLAUGHTER: VOLUNTARY	119-A-	7	DD	15 Y
MANSLAUGHTER: INVOLUNTARY	119-B1	4	DD	10 Y
MANSLAUGHTER: INVOLUNTARY WITH SPECIFIED OFFENSES	119-B2	4	DD	10 Y
** UCMJ CODE 120				
RAPE	120-A-	7	DEATH	LIFE
CARNAL KNOWLEDGE: CHILD 12 TO 16 YRS OLD	120-B1	4	DD	20 Y
CARNAL KNOWLEDGE: CHILD UNDER 12 YRS OLD	120-B2	7	DD	LIFE
** UCMJ CODE 121				
LARCENY: MILT PROPERTY \$100 OR LESS	121-A1	1	BCD	1 Y
LARCENY: MILT PROPERTY MORE THAN \$100	121-A2	3	DD	10 Y
LARCENY: NONMILT PROPERTY \$100 OR LESS	121-B1	1	BCD	6 M
LARCENY: NONMILT PROPERTY MORE THAN \$100	121-B2	3	DD	5 Y
MISAPPROPRIATE: \$100 OR LESS	121-C1	1	NONE	3 M
MISAPPROPRIATE: MORE THAN \$100	121-C2	2	BCD	6 M
MISAPPROPRIATE: CAR, PLANE, BOAT	121-C3	2	DD	2 Y
** UCMJ CODE 122				
ROBBERY: WITH FIREARM	122-A-	6	DD	15 Y
ROBBERY: OTHER CASES	122-B-	5	DD	10 Y
** UCMJ CODE 123				
FORGERY: MAKING/ALTERING	123-A-	3	DD	5 Y
FORGERY: UTTERING	123-B-	3	DD	5 Y
** UCMJ CODE 123A				
BAD CHECK: DEFRAUD \$100 OR LESS	123AA1	1	BCD	6 M
BAD CHECK: DEFRAUD MORE THAN \$100	123AA2	2	DD	5 Y
BAD CHECK: DECEIVE	123AB-	1	BCD	6 M
** UCMJ CODE 124				
MAIMING	124---	4	DD	7 Y
** UCMJ CODE 125				
SODOMY: FORCE	125-A-	6	DD	LIFE
SODOMY: CHILD 12 TO 16 YRS OLD	125-B1	4	DD	20 Y
SODOMY: CHILD UNDER 12 YRS OLD	125-B2	7	DD	LIFE
SODOMY: OTHER	125-C-	4	DD	5 Y
** UCMJ CODE 126				
ARSON: AGGRAVATED	126-A-	6	DD	20 Y
ARSON: PROPERTY \$100 OR LESS	126-B1	2	DD	1 Y
ARSON: PROPERTY MORE THAN \$100	126-B2	4	DD	5 Y
** UCMJ CODE 127				
EXTORTION	127---	5	DD	3 Y
** UCMJ CODE 128				
ASSAULT: SIMPLE	128-A-	2	NONE	3 M
ASSAULT: BY BATTERY	128-B-	1	BCD	6 M
ASSAULT: COMMISSIONED OFFICER	128-C-	2	DD	3 Y
ASSAULT: CWO	128-D-	1	DD	18 M
ASSAULT: NCO OR PO	128-E-	1	BCD	6 M
ASSAULT: MILT/CIV LAW ENFORCER	128-F-	3	DD	3 Y
ASSAULT: CHILD UNDER 16	128-G-	2	DD	2 Y
ASSAULT: HARM INTENDED, FIREARM	128-H1	5	DD	8 Y
ASSAULT: HARM INTENDED, OTHER	128-H2	3	DD	3 Y

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DESCRIPTION	CODE	SEV	MAX DISC	MAX CONF
ASSAULT: HARM INFLICTED, FIREARM	128-J1	7	DD	10 Y
ASSAULT: HARM INFLICTED, OTHER	128-J2	5	DD	5 Y
** UCMJ CODE 129				
BURGLARY	129---	5	DD	10 Y
** UCMJ CODE 130				
HOUSEBREAKING	130---	5	DD	5 Y
** UCMJ CODE 131				
PERJURY: GIVING FALSE TESTIMONY	131-A-	3	DD	5 Y
PERJURY: SUBSCRIBING FALSE STATEMENT	131-B-	3	DD	5 Y
** UCMJ CODE 132				
FRAUD: MAKE FALSE CLAIM	132-A-	5	DD	5 Y
FRAUD: PRESENT FALSE CLAIM	132-B-	5	DD	5 Y
FRAUD: FALSE DOCUMENT WITH CLAIM	132-C-	5	DD	5 Y
FRAUD: FALSE OATH IN CONNECTION WITH CLAIM	132-D-	5	DD	5 Y
FRAUD: FORGERY OF SIGNATURE	132-E-	5	DD	5 Y
FRAUD: USE FORGED SIGNATURE	132-F-	5	DD	5 Y
DELIVER LESSER AMT THAN ON RECEIPT: \$100 OR LESS	132-G1	1	BCD	6 M
DELIVER LESSER AMT THAN ON RECEIPT: MORE THAN \$100	132-G2	5	DD	5 Y
MAKE/DELIVER RCPT WITHOUT FULL KNOWL: \$100 OR LESS	132-H1	1	BCD	6 M
MAKE/DELIVER RCPT W/OUT FULL KNOWL: MORE THAN \$100	132-H2	5	DD	5 Y
** UCMJ CODE 133				
CONDUCT UNBECOMING OFFICER: COPY CHEAT	133-A-	3	DIS	PRES
CONDUCT UNBECOMING OFFICER: DRUNK/DISORDERLY	133-B-	3	DIS	PRES
CONDUCT UNBECOMING OFFICER: FRATERNIZATION	133-C-	3	DIS	PRES
CONDUCT UNBECOMING OFFICER: OTHER	133-D-	3	DIS	PRES
** UCMJ CODE 134				
ABUSING ANIMAL	134-A1 061	1	NONE	3 M
ADULTERY	134-B1 062	1	DD	1 Y
BIGAMY	134-B2 065	1	DD	2 Y
COHABITATION: WRONGFUL	134-B3 069	1	NONE	4 M
FRATERNIZATION	134-B4 083	3	DIS	2 Y
PANDERING	134-B5 097	3	DD	5 Y
PROSTITUTION	134-B6 097	2	DD	1 Y
ASSAULT: INDECENT	134-C1 063	5	DD	5 Y
ASSAULT: INTENT TO MURDER	134-C2 064	7	DD	20 Y
ASSAULT: INTENT TO MANSLAUGHTER	134-C3 064	7	DD	10 Y
ASSAULT: INTENT TO RAPE	134-C4 064	7	DD	20 Y
ASSAULT: INTENT TO ROB	134-C5 064	7	DD	10 Y
ASSAULT: INTENT TO SODOMIZE	134-C6 064	7	DD	10 Y
ASSAULT: INTENT TO HOUSEBREAK	134-C7 064	5	DD	5 Y
ASSAULT: INTENT ARSON/BURGLARY	134-C8 064	7	DD	10 Y
HOMICIDE: NEGLIGENT	134-C9 064	4	BCD	3 Y
BRIBERY	134-D1 066	5	DD	5 Y
GRAFT	134-D2 066	2	DD	3 Y
BURN WITH INTENT TO DEFRAUD	134-E1 067	4	DD	10 Y
CHECK: WORTHLESS MAKE/UTTER	134-F1 068	1	BCD	6 M
CORRECTIONAL CUSTODY: ESCAPE	134-G1 070	2	DD	1 Y
CORRECTIONAL CUSTODY: BREACH	134-G2 070	2	BCD	6 M
BREAK QUARANTINE	134-G3 100	1	NONE	6 M
RESTRICTION: BREAKING	134-G4 102	1	NONE	1 M
PAROLE: VIOLATION OF	134-G5 999	1	BCD	6 M
OFFENDER: ALLOWING TO DO UNAUTHORIZED ACT	134-G6 999	1	NONE	3 M
FAIL TO PAY DEBT	134-H1 071	1	BCD	6 M

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DESCRIPTION	CODE	SEV	MAX DISC	MAX CONF
DISLOYAL STATEMENT	134-I1	072 4	DD	3 Y
DRUNK: UNABLE TO PERFORM DUTIES	134-J0	076 1	NONE	3 M
DRUNK: ABOARD SHIP	134-J1	073 1	NONE	3 M
DRUNK: OTHER CASES	134-J2	073 1	NONE	1 M
DRUNK/DISORDERLY: ON SHIP	134-J3	073 1	BCD	6 M
DRUNK/DISORDERLY: BRING DISCREDIT	134-J4	073 1	NONE	6 M
DRUNK/DISORDERLY: OTHER	134-J5	073 1	NONE	3 M
DRINK LIQUOR WITH OFFENDER/PRISONER	134-J6	074 1	NONE	3 M
DRUNK OFFENDER	134-J7	075 1	NONE	3 M
DISORDERLY CONDUCT: BRING DISCREDIT	134-J8	073 1	NONE	4 M
DISORDERLY CONDUCT: OTHER CASES	134-J9	073 1	NONE	1 M
MILT PASS: WRONGFUL MAKE/TAMPER/ALTER/COUNTERFEIT	134-K1	077 2	DD	3 Y
MILT PASS: WRONGFUL SALE/GIFT/LOAN/DISPOSITION	134-K2	077 2	DD	3 Y
MILT PASS: WRONGFUL USE/POSSESS	134-K3	077 2	DD	3 Y
MILT PASS: ALL OTHER	134-K4	077 1	BCD	6 M
FALSE PRETENSE: \$100 OR LESS	134-L1	078 1	BCD	6 M
FALSE PRETENSE: MORE THAN \$100	134-L2	078 2	DD	5 Y
FALSE SWEARING	134-M1	079 2	DD	3 Y
FIREARM: DISCHARGE NEGLECT	134-N1	080 1	NONE	3 M
FIREARM: DISCHARGE WILLFUL	134-N2	081	DD	1 Y
WEAPON: CARRY CONCEALED	134-N3	112 3	BCD	1 Y
FLEE SCENE: ACCIDENT	134-O1	082 1	BCD	6 M
GAMBLE WITH SUBORDINATE	134-P1	084 1	NONE	3 M
JUMP VESSEL	134-P2	091 1	BCD	6 M
STRAGGLING	134-P3	107 1	NONE	3 M
WEARING UNAUTHORIZED INSIGNIA	134-P4	113 1	BCD	6 M
IMPERSONATE, INTENT TO DEFRAUD: OFF, WO, NCO	134-Q1	086 3	DD	3 Y
IMPERSONATE, NO INTENT TO DEFRAUD: OFF, WO, NCO	134-Q2	086 1	BCD	6 M
IMPERSONATE, INTENT TO DEFRAUD: OTHER	134-Q3	086 3	DD	3 Y
IMPERSONATE, NO INTENT TO DEFRAUD: OTHER	134-Q4	086 1	BCD	6 M
INDECENT ACT: WITH CHILD	134-R1	087 5	DD	7 Y
INDECENT EXPOSURE	134-R2	088 1	BCD	6 M
INDECENT LANGUAGE TO CHILD UNDER 16	134-R3	089 2	DD	2 Y
INDECENT LANGUAGE: ALL OTHER	134-R4	089 1	BCD	6 M
INDECENT ACTS: WITH OTHERS	134-R5	090 4	DD	5 Y
KIDNAPPING	134-S1	092 7	DD	LIFE
MAIL: DESTROY, STEAL, TAKE, OPEN	134-T1	093 3	DD	5 Y
MAIL: DEPOSIT OBSCENITY	134-T2	094 3	DD	5 Y
MAIL: ALL OTHER	134-T3	999 1		
MISPRISION: SERIOUS OFFENSE	134-U1	095 2	DD	3 Y
OBSTRUCT JUSTICE	134-U2	096 3	DD	5 Y
PERJURY: SUBORNATION OF	134-U3	098 3	DD	5 Y
WRONGFUL INTERFERENCES W/ADMIN PROCEEDING	134-U4	999 3	DD	5 Y
PUBLIC RECORD: ALTER/REMOVE	134-U5	099 2	DD	3 Y
REQUEST COMMISSION OF OFFENSE	134-U6	101 1	NONE	4 M
SOLICIT ANOTHER TO COMMIT OFFENSE	134-U7	105 *	PRES	PRES
REFUSE TO TESTIFY	134-U8	108 2	DD	5 Y
UNLAWFUL ENTRY	134-V1	111 1	BCD	6 M
PROPERTY: SEIZURE, DESTRUCTION, REMOVAL	134-V2	103 2	DD	1 Y
STOLEN PROPTY: RECEIVE/CONCEAL/BUY \$100 OR LESS	134-V3	106 1	BCD	6 M
STOLEN PROPTY: RECEIVE/CONCEAL/BUY MORE THAN \$100	134-V4	106 2	DD	3 Y
SENTINEL: DISRESPECT	134-W1	104 1	NONE	3 M
SENTINEL: LOITERING IN TIME OF WAR	134-W2	104 8	DD	2 Y

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DESCRIPTION	CODE	SEV	MAX DISC	MAX CONF
SENTINEL: LOITERING AT OTHER TIMES	134-W3	104 1	BCD	6 M
THREAT: BOMB	134-X1	109 3	DD	5 Y
THREAT: COMMUNICATE	134-X2	110 5	DD	3 Y
CRIME AND OFFENSES NOT CAPITAL	134-Y1	999 *	PRES	PRES
ASSIMILATED CRIMES ACT	134-Y2	999 *	PRES	PRES
OTHER 134	134-Z-	999 *	PRES	PRES

PART IV

DECISION-MAKING MATRIX

Identifies the customary range of confinement to be served (including pretrial confinement) by the offender prior to release on parole.

OFFENSE SEVERITY RATING	SALIENT FACTOR SCORE			
	Very Good	Good	Fair	Poor
	(10-8)	(7-6)	(5-4)	(3-0)
One	<-4 Mos	<-8 Mos	8-12 Mos	12-16 Mos
Two	<-6 Mos	<-10 Mos	12-16 Mos	16-22 Mos
Three	<-10 Mos	12-16 Mos	18-24 Mos	24-32 Mos
Four	12-18 Mos	20-26 Mos	26-34 Mos	34-44 Mos
Five	24-36 Mos	36-48 Mos	48-60 Mos	60-72 Mos
Six	40-52 Mos	52-64 Mos	64-78 Mos	78-100 Mos
Seven	52-80 Mos	64-92 Mos	78-110 Mos	100-148 Mos
Eight*	100+ Mos	120+ Mos	150+ Mos	180+ Mos

\*For Offense Severity Rating Eight, no upper limits are specified due to the extreme variability of the cases within this rating. For decisions exceeding the lower limit of the applicable guideline by more than 48 months, NC&PB will specify the pertinent aggravating case factors (e.g., that a homicide was premeditated or committed during the course of another felony; or that extreme cruelty or brutality was demonstrated) upon which it relied in reaching its decision, which may include the absence of any factors mitigating the offense.

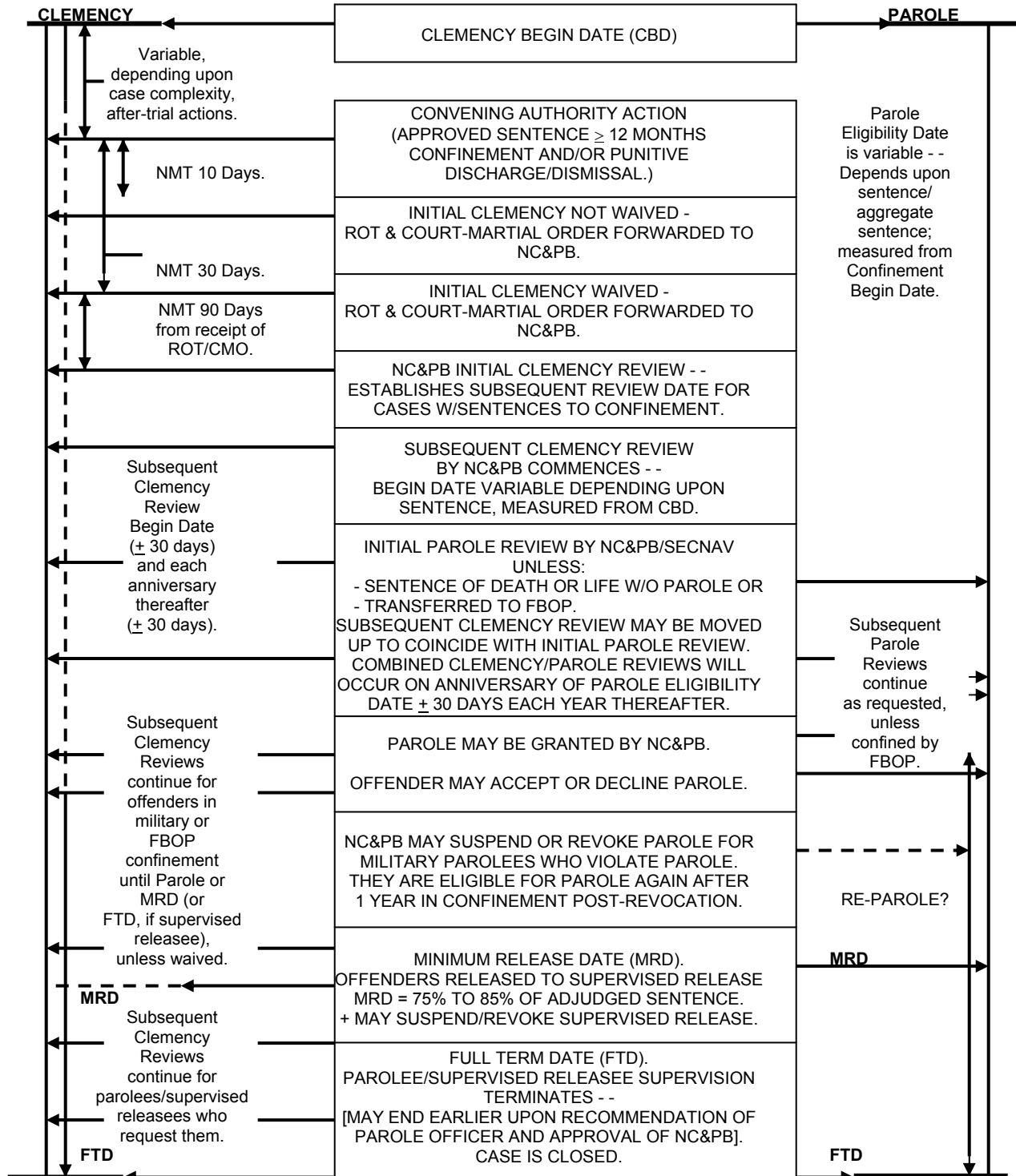
SECNAVINST 5815.3J  
JUN 12 2003

APPENDICES D, E, & F

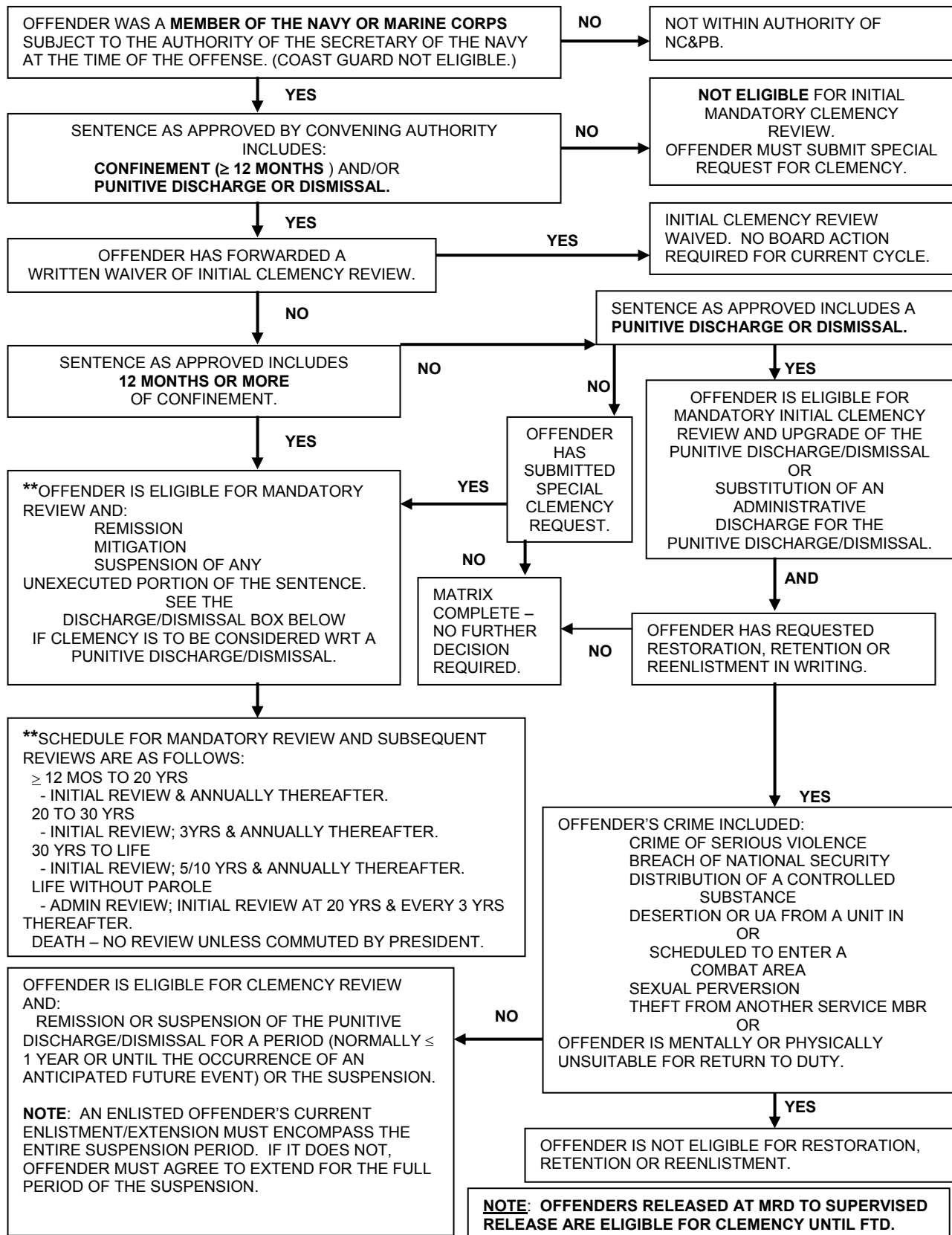
WIRE DIAGRAMS/TIMELINES

The attached wire diagrams/timelines are intended to provide a quick reference guide to the provisions of this instruction. Nothing in these wire diagrams/timelines grants privileges or rights or mandates actions or decisions that are not granted or mandated within the main body of this instruction.

## APPENDIX D: CLEMENCY/PAROLE TIMELINE

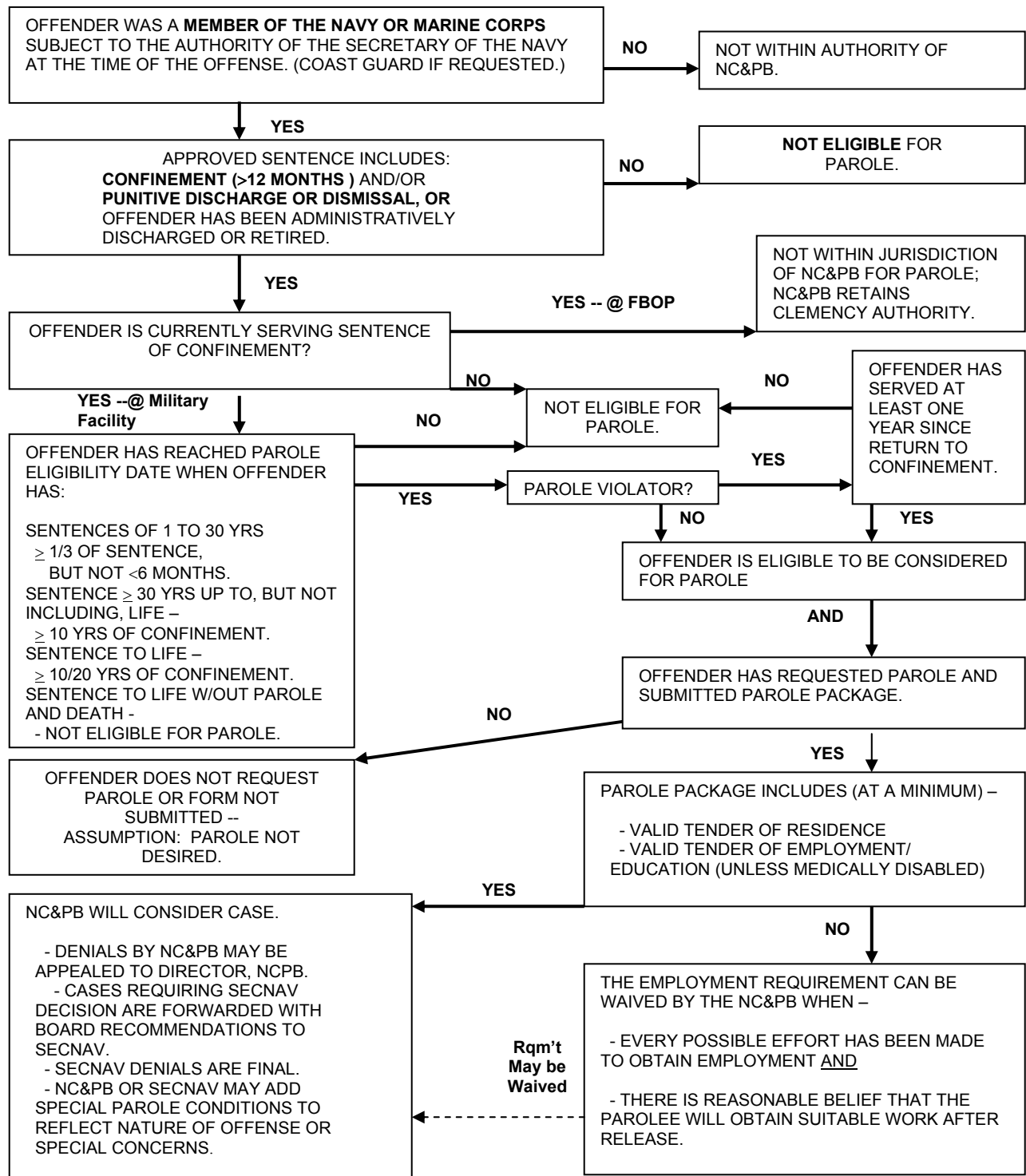


## APPENDIX E: CLEMENCY ELIGIBILITY





## APPENDIX F: PAROLE ELIGIBILITY



APPENDIX G

SUMMARY OF SIGNIFICANT REVISIONS

*This revision reflects the following changes to SECNAVINST 5815.3H:*

*a. Implements changes in clemency and parole procedures to conform to the most current version of DODINST 1325.7 of 17Jul01.*

*(1) Appendix A contains new lists of forms.*

*(2) Appendix C, Part III, contains new Offense Severity Ratings in accordance with DoD Instruction.*

*(3) Death Sentence is addressed, to include role of President as sole official authorized to commute a death sentence to a lesser sentence. (See Sections 305d and 403d(5).)*

*(4) Life without Parole is addressed, to include role of SECNAV as sole official authorized to commute a sentence of life without parole to a lesser sentence. (See Section 304d.)*

*(5) Frequency of clemency/parole review in cases of long-term offenders is attenuated to decrease possibility of initial, unrealistic expectations on the part of long-term offenders. (See Sections 403 and 503.)*

*(6) Initiates and implements "supervised release" (as if on parole) from Minimum Release Date to Full Term Date. (See Chapter VII.)*

*b. Provides graphic schematics (Appendices D, E, & F) to explain the clemency/parole process.*

*c. Provides the Naval Clemency and Parole Board with the regulatory authority in select cases to recommend substitution for good cause of an administrative discharge for an executed punitive discharge or dismissal. This revision makes the Department of the Navy's position consistent with that of other Services. SECNAV or designee will exercise final decisional authority. (See Section 304c.)*

*d. Provides the Naval Clemency and Parole Board with the regulatory authority to substitute for good cause a discharge under other than honorable conditions for an unexecuted punitive discharge or dismissal. Prior to this revision, the Naval Clemency and Parole*

*Board could only substitute an honorable discharge or a general discharge under honorable conditions for an unexecuted punitive discharge or dismissal. This revision makes the Department of the Navy's position consistent with that of the other Services. (See Sections 306b and 402a.)*

e. Changes one of the sub-criteria for forwarding cases to SECNAV by changing the language from "maximum punishment authorized" to "maximum punishment approved by the convening authority." This revision will obviate the need to forward routine drug cases up the chain of command for approval and is more consistent with the practices of the other services. (See Sections 308a(6)(e) and 308b(7)(e).)

f. Authorizes the substitution of an unclassified summary of relevant facts/circumstances for the full record of trial in national security cases. Intent is to facilitate the open and candid discussion of the case without the fettering constraints imposed by security regulations. (See Section 310a.)

g. Strengthens current conflict of interest and recusal regulations for NC&PB members. (See Section 311f.)

h. Strengthens current regulations that mandate non-adversarial proceedings. (See Section 311e.)

i. Provides Director, Naval Council of Personnel Boards more flexibility in designating the President, Naval Clemency and Parole Board. Revision provides that the President, Naval Clemency and Parole Board may either be a senior military officer or a senior civil servant. This revision is consistent with the practices of the other Services. (See Sections 307a(5) and 307c.)

j. Provides a Website Address to facilitate access to the Naval Clemency and Parole Board. (See Section 321.)

k. Provides that the Navy and Marine Corps Appellate Leave Activity (NAMALA) will be the central repository for the original service/health records of parolees. (See Sections 517j(1)-(4) and 608a-c.)

l. Provides that, in case of parole applicants, a valid tender of employment is not necessarily required prior to consideration by the Naval Clemency and Parole Board, but that a valid tender of employment must be forwarded (via the naval brig chain of command) to the President, Naval Clemency and Parole Board, for consideration and approval prior to release (on parole) of the offender from the naval brig. (See Section 506a.)

m. Provides increased guidance in the area of victim/witness registration and impact statements. (See Section 311b-c.)

n. Delegates final decisional authority to NC&PB in special holiday clemency release cases to ensure the NC&PB acts in consonance with both the Army and Air Force Clemency and Parole Boards. (See Section 406a(1).)